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TIDES AND PATTERNS IN AMERICAN POLITICS

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As an aid in interpreting the outcome of the 1942 congressional election and subsequent general elections, this paper presents two basic studies that have been found very helpful in connection with the 1940 election.[1] One of these deals with the changes in political sentiment for the country as a whole, as shown by the long-time record of relative strength of the Democratic party in the two-party vote in congressional and presidential elections. From this long-time record it is possible to derive the characteristics of our political tides and an interpretation of the most recent changes as background for forthcoming elections. For example, the Democratic party attained its greatest strength on record in 1936, but in 1938 the tide turned against it, largely because of the 1937–38 business recession. Recovery by 1940 checked the decline.

The second study (in two sections) deals with the basic similarities between the pattern of political behavior for a given series of elections for the country as a whole and the political behavior of most of the states. From the "normal" relationships that can be developed between the national and state experience, it is possible to determine the influence of certain major issues, such as the isolationist and third-term issues in 1940. In that election, the Eastern and Far Western states voted more Democratic and the Midwestern and Great Plains states voted less Democratic than usual. These discrepancies are immediately traceable more to isolationist and anti-third-term sentiment than to any of the other issues.

I. POLITICAL TIDES

The existence of political tides in American history is usually taken for granted, but there has never been a simple statistical

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[1] Presented originally at the 1940 meeting of the American Political Science Association. Some of the material is drawn from the author's *Ballot Behavior; A Study of Presidential Elections* (Washington, D. C., 1940).

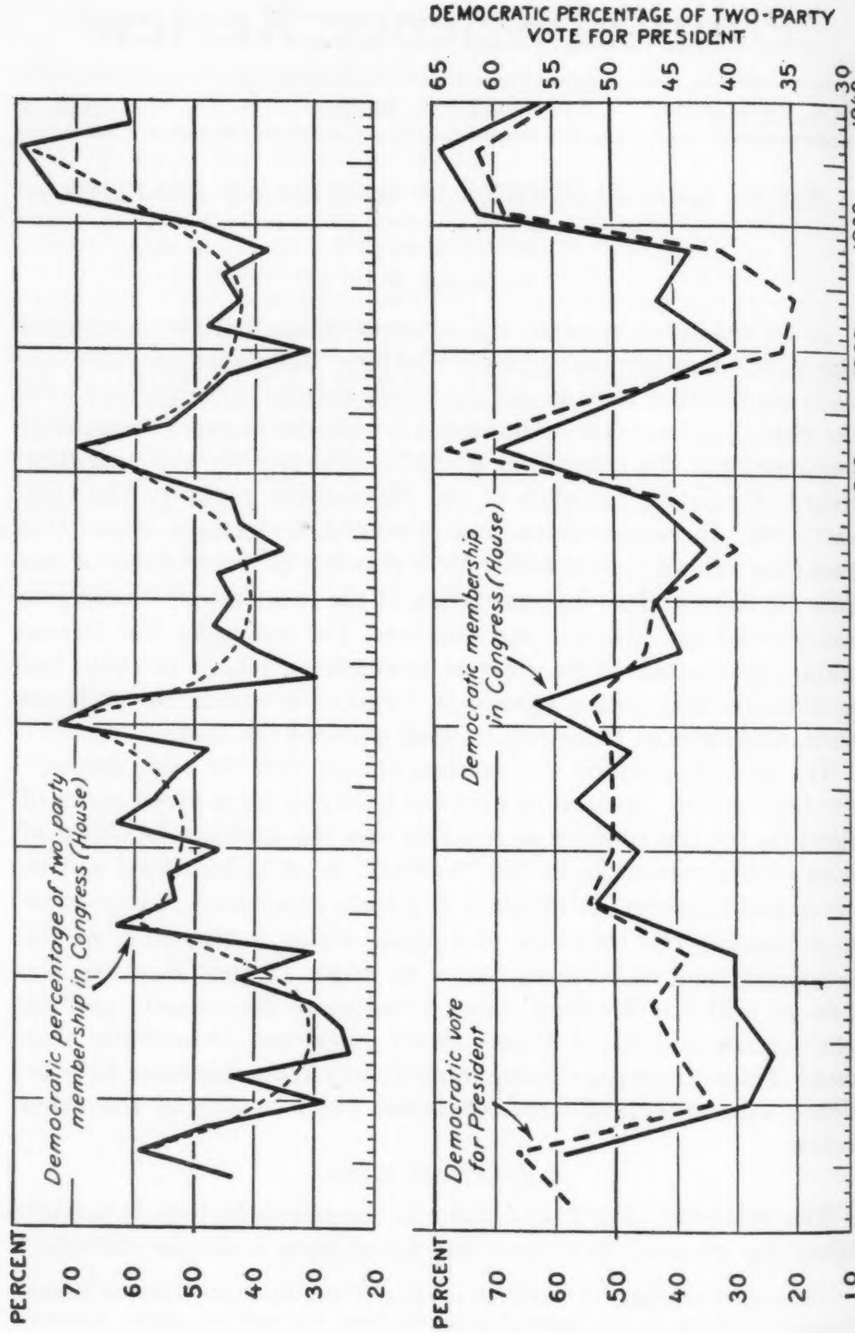

CHART I—POLITICAL TIDES.

demonstration. Consequently, various students of political affairs have held entirely different notions as to the duration of such tides, their rate of progress at a given moment, and the extent to which they are influenced by business, war, third parties, and other political factors. For instance, the duration of these tides has been variously given as eight, twelve, and twenty years, and some erroneously interpreted the rapid rate of change between 1936 and 1938 to mean the election of both a Republican president and a Republican Congress in 1940.

It is possible to obtain a clearer idea of these questions than is generally held, but to do so a measure of political tides must be established. In the Winter 1940 issue of the *Yale Review*, Professor Schlesinger reviews the duration of liberal and conservative tendencies in American politics. He finds that periods of liberalism, when the dominant legislative concern is with human issues, alternate with periods of conservatism, when legislation deals chiefly with property-rights issues. These periods have differed in duration but last on the average about fifteen to eighteen years. According to this finding, we are now in the midst of a liberal political tide, which began in 1931, and should therefore last through most of the 1940's.

But political tides may be measured more definitely than this, and more quantitatively. One measure may be conveniently derived from the records of party membership in Congress. Membership in the lower house, since it is subject to biennial elections, offers a more comprehensive statistical record than does membership in the Senate. Over the years, the total membership in Congress has increased in proportion with the total population. This growth factor may be taken into account by the simple device of taking either the Democratic or Republican percentage of the total membership of the House, thus obtaining a single series of figures which can be analyzed for the existence of tides and their characteristics. (See Table I and upper section of Chart I.)

Another measure of political tides may be derived from the figures showing the party percentages of the total popular vote for President. This series has only half as many episodes as the congressional elections series, and to that extent it is less adequate as a statistical measure of the nature of political swings. (See lower half of Chart I.)

A careful study of this record reveals the following significant facts:

TABLE I. DEMOCRATIC PERCENTAGES OF TWO-PARTY MEMBERSHIP IN LOWER HOUSE OF CONGRESS, 1856–1940
(arranged in 5 periods)

Period I		*Period II*		*Period III*		*Period IV*		*Period V*	
1856	58.7	1874	62.8	1890	72.4	1912	69.5	1936	78.9
1858	47.2	1876	53.2	1892	63.6	1914	54.5	1938	60.8
1860	28.4	1878	54.0	1894	29.7	1916	49.3	1940	62.2
1862	43.7	1880	46.1	1896	39.4	1918	44.6		
1864	24.1	1882	62.7	1898	46.8	1920	30.6		
1866	25.5	1884	56.5	1900	43.6	1922	47.9		
1868	30.0	1886	53.0	1902	46.2	1924	42.6		
1870	42.8	1888	47.4	1904	35.2	1926	45.1		
1874	62.8	1890	72.4	1906	42.5	1928	37.9		
				1908	44.0	1930	49.3		
				1910	58.5	1932	72.8		
				1912	69.5	1934	75.8		
						1936	78.9		

1. The year 1936 marked the highest position attained in Congress by the Democratic party. In that year, it had seventy-nine per cent of the two-party membership.

2. This may be compared with five previous dominant positions: in 1912, 1890, 1882, 1874, and 1856. The Democratic party had a membership of seventy and seventy-two per cent, respectively, in 1912 and 1890; sixty-three per cent in 1882 and 1874; and fifty-nine per cent in 1856.

3. The years of smallest Democratic membership were 1920, 1894, and 1864, the respective percentages being thirty-one, thirty, and twenty-four.

4. These high and low years, as well as the entire eighty-four-year period, reveal a general upward tendency in the Democratic proportion in Congress. During the 1850's and 1860's, this proportion fluctuated around an average of about forty per cent, but during the past two decades it has fluctuated around a higher "norm" of about fifty-five per cent.

5. The political pendulum has not swung with regularity, and does not furnish a very reliable indication of its probable course in the 1940's. Measured from peak to peak of Democratic dominance, there have been four major swings of the pendulum since 1854; the first swing took eighteen years, the second sixteen years, the third twenty-two years, and the fourth twenty-four years.

6. The first swing in this record took place between 1856 and

1874. The Democrats lost power with the depression of 1858 and returned to power with the depression of 1874. In this period, seven successive congressional elections went Republican.

7. The second swing took place between 1874 and 1890. During the years from 1874 to 1892, the Democrats continued to dominate Congress, however, and the pendulum never reached the Democratic low of the 1860's. In fact, this period may be described as having two eight-year swings instead of one sixteen-year swing, but with only two congressional elections in the entire period, those of 1880 and 1888, going Republican.

8. The third definite swing occurred between 1890 and 1912. It began somewhat earlier than the depression of the 1890's and ended with the Democrats coming back into power in 1910–12, following the depression of 1908 and the political and economic reform movements that this depression engendered. In this period, eight successive congressional elections went Republican.

9. The fourth swing was set in motion by the depression of 1914. and terminated when the Democratic party returned to power with the depression of 1932. In this period also, eight successive congressional elections went Republican.

Did the depression of 1938, which brought with it a marked loss in Democratic membership, from seventy-nine per cent in 1936 to sixty-one per cent in 1938 and sixty-two per cent in 1940, initiate a long-time swing that will carry the Democratic percentage in Congress below its present norm of fifty-five per cent? Will the Democratic party return to the low position it held during the 1920's, the 1890's, and the 1860's, or will it maintain the position it held during the 1870's and 1880's, when the pendulum failed to swing low? Any answer to this question as to the long-time prospect must be based either on pure guesswork, on astute political and economic analysis, or on prophetic intuition.

It may be of some interest to observe the extent to which this irregular record of political tides helped in judging how far the tide had swung between 1936 and 1940 before the results of the 1940 election were known. For this purpose, it was necessary to examine the course of development after each of the five major turning points. It was found that each of those turning points was associated with the development of a business depression, and that the rate of decline was influenced by the magnitude of the depression and the course of subsequent recovery. Between 1936 and

1938, a substantial recession in business activity set in. On the basis of the usual relation of changes in business to changes in the House membership of the major party in power, we predicted early in 1938 that the Democrats would lose ground and would have only sixty to sixty-five per cent of the membership after the November, 1938, election, compared with seventy-nine per cent in the 1936 election.[2] The actual result was sixty-one per cent.

This fairly accurate prediction, followed by business recovery in 1938–39, made it possible to forecast that the Democratic party would still control the House in 1940 and that a Democratic president would be elected. Many political observers, unaware of this quantitative relation between changes in business and change in political party position, over-estimated the momentum of the Democratic decline between 1936 and 1938, and therefore guessed wrong on the outcome of the 1940 presidential election.

The differences in the rate of decline after each turning point have been quite marked. After a loss of position in 1858, the Democrats lost even more heavily in 1860. This was due to a combination of two factors—a split in the Democratic party which brought two Democratic candidates into the field, and the social revolution which culminated in the Civil War. A similar loss in position developed in 1894, in the second congressional election after the 1890 peak, and followed the occurrence of a major depression. The course of the political tide after each of the other three swings was much more moderate. The loss of position experienced by the Democrats after the peaks of 1874, 1882, and 1912 was also associated with downward trends in business, but in two of the three cases (each involving the second congressional election following the peak years, which would correspond to the 1940 election following the 1936 peak year) the Democratic percentage fell only slightly, and in the third case it increased slightly. On a two-party basis, the Democratic membership declined ten points in 1876, but increased one point in 1878; it declined eight points in 1884, but only three and one-half points in 1886; it declined fourteen points in 1914 and only five points in 1916. On the average, the second change following these three peak years was about three points, in marked contrast to the decline of nineteen points in 1860 and of thirty-four points in 1894.

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[2] For a fuller statement of the relation of business to political tides, see *Ballot Behavior*, Chap. 10.

During the first part of 1940, most observers agreed that we were not facing social and economic conditions comparable to those of 1860 or 1894, and this led to the conclusion that the political pendulum (measured in terms of Democratic strength) had swung only moderately lower between 1938 and the spring of 1940. Had a congressional election been held early in 1940, the Democrats would still have had as much as fifty-seven or fifty-eight per cent of the two-party membership. This we took as a projection of the political tide up to June, 1940, before the European war and the choice of candidates for the presidential race began to have their effect.

The political pendulum has so far been described in terms of the Democratic percentage of the two-party membership in Congress. It may also be shown in terms of the Democratic percentage of the two-party vote for president. Over the years, there has been a very close correspondence between the directions taken by the swings in the presidential two-party vote and those in the party composition of Congress. The swings in the House membership percentages are as a rule greater than those in the presidential percentage. This general agreement is shown in the lower half of Chart I, where it should be observed that the scale for plotting the House membership percentages on one side differs from the scale used for plotting the presidential percentages on the other. In 1928, the Democrats cast forty-one per cent of the total two-party presidential vote and elected thirty-eight per cent of the two-party membership in Congress. In 1932, the presidential Democratic vote was fifty-nine per cent and the Democratic House membership was seventy-two per cent. In 1936, the respective percentages were sixty-two and seventy-nine. From this general correspondence of percentages we perceive that a Democratic House membership percentage of fifty-seven would ordinarily correspond to a Democratic vote for president of fifty-four to fifty-five per cent. This we took to be the most probable outcome of the 1940 election and may be compared with the actual vote of fifty-five per cent.

The fact that the Democratic party did not lose seats in the House in the 1940 election, while the popular vote for president declined from sixty-two per cent in 1936 to fifty-five per cent in 1940, offers a possible quantitative clue to the number of votes President Roosevelt lost because of the third-term issue. On only two other occasions in the past forty years have we had a marked discrepancy in the relationship between the Democratic percentage vote for president and the Democratic percentage in House membership. These were 1912 and 1924, three-party election years. The discrepancy in 1940 may be attributed to the third-term issue, with the effect of that historic challenge showing up in the votes cast for president but not necessarily for congressmen.

Had the normal relation between the congressional election and the popular vote for president prevailed, the latter would have been perhaps fifty-seven or fifty-eight per cent Democratic instead of fifty-five. This difference of two to three per cent we are inclined to associate with the third-term issue. We conclude from these figures that the Democrats, having lost ground as a result of the 1937–38 depression, would have won the election with a fifty-seven or fifty-eight per cent vote instead of sixty-two per cent in 1936, and that the actual vote of fifty-five per cent represents a net loss of two to three per cent of the total of fifty million votes cast. This suggests that about one to one and one-half million votes were cast against Roosevelt because of the third term.

The question naturally arises as to the position of the political tide in 1942 and thereafter. Are we to see in the 1940's a series of Democratic congresses, as in the 1880's but with less power than in the late 1930's, or will the course of the war and post-war developments bring a change in administration? In general, it may be said that anyone who can predict the tides of business and of battle can with a bit of statistical help also predict the course of the American political tide. For 1942, there is little doubt about the record level of industrial activity continuing as a favorable factor for the Democratic party. It is the course of the war, public reaction to war developments and to the domestic war programs, and the extent to which isolationist sentiment has disappeared since 1940, that will shape the outcome of the next election.

There are likely to be considerable misconceptions concerning the outcome of the 1942 election unless certain misconceptions concerning the 1940 election are cleared up. For this reason the balance of this paper is devoted to a fairly detailed analysis of the regional shifts in the 1940 election, leading to the location and measurement of isolationist and war sentiment influence in the 1940 presidential election.

The fact that only two New England and eight Midwestern states went Republican in the 1940 election has given rise to the remark that the center of Republicanism has shifted from the Northeast to the Middle West, and that farmers, presumably dissatisfied with the farm programs, voted against the Administration. Comments such as these do not touch on the basic feature of this regional shift in the two-party vote related to the war issue.

When an analysis of the 1940 election is made, state by state, taking into account the peculiarities of political behavior in the different regions, it becomes clear that the relatively greater Republican gains in the tier of states from North Dakota to Texas (including Missouri and Colorado) than in the East and Far West are associated in large part with the fact that people in the central part of the United States respond differently to war problems than do those of the Eastern and Far Western states. The 1940 shift was in fact roughly similar to that of 1916, and therefore does not mean that a permanent realignment has taken place.

The basis for these conclusions will be found in the following two sections of this paper. The first deals with political patterns for each state from 1896 to 1940, inclusive, and reveals the fact that for a given national two-party vote there are corresponding results in each of the states. The second deals with the actual two-party vote in 1940 for each state contrasted with what might be called "normal" for each state in view of the past correspondences between the national and state two-party percentages. In the differences between actual and "normal" results, there is clear evidence of a 1940 Democratic sag in the Midwestern Great Plains states of well-known isolationist sentiment.

II. REGIONAL PATTERNS OF POLITICAL BEHAVIOR

Our presidential elections have, as a rule, been two-party affairs. Since 1896, there have been only two major third-party episodes—one in 1912, when former President Theodore Roosevelt created the Bull Moose Progressive party, thereby bringing victory to the Democrats; the other in 1924, when the elder Senator La Follette ran as an independent candidate and increased the Republican margin over the Democratic. In other elections, at least of the past two generations, our political behavior has involved a shifting chiefly from one major party to another. Since it is this shifting between the Democratic and Republican parties that we are primarily interested in, we may resort to the simple device of showing the votes of one major party as a proportion of the total vote cast either for the two major parties combined or for all parties, major and minor. Most political commentators tend to deal with absolute numbers of votes cast, but where the population for the country as a whole or for a given state or locality is a changing one, the patterns of political behavior can best be seen in the percentages of the total vote cast for either of the two major parties rather than in absolute numbers.

In beginning our examination of the regional patterns of political behavior, let us note the major characteristics of the national presidential vote. This we can do readily by studying the fluctuations in the Democratic or Republican percentages either of the two-party vote or of the total vote.

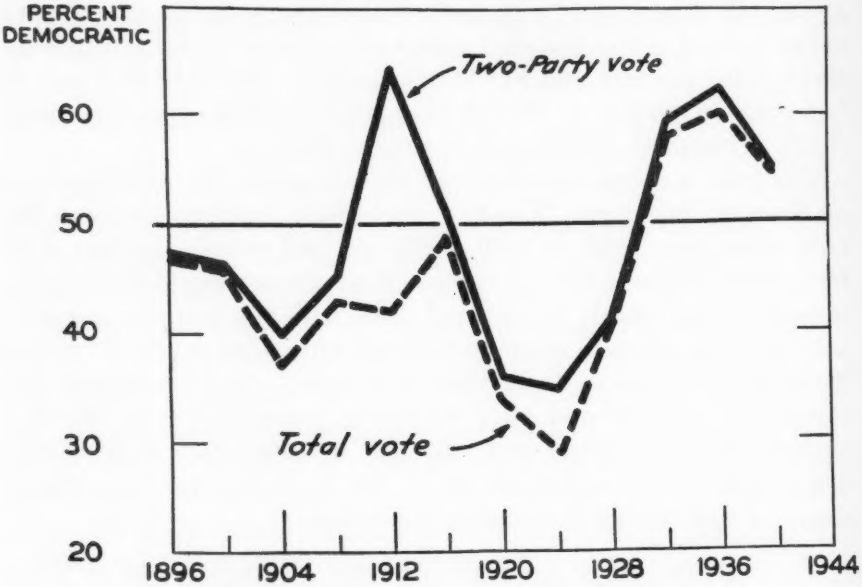

Chart II. Democratic Percentage of Two-Party and Total Presidential Votes, 1896–1940.

The two sets of comparable percentages for each election from 1896 to 1940 inclusive are shown in Chart II. The lowest Democratic years were 1904 and 1924; the highest, 1912–16 and 1932–36. The fluctuations, or major swings, shown in Chart I, constitute our typical forty-year pattern of political behavior.

On the basis of the total votes cast, the Democratic party has had only two majorities since 1896, one in 1932 and the other in 1936; but on the basis of the two-party vote, it has had four majorities, the other two being in 1912 and 1916. From the standpoint of winning an election, it is, of course, the majority in the two major party contests, state by state, that counts. In 1912, Wilson was elected with only forty-two per cent of the total vote, but sixty-four per cent of the two-party vote, and in 1916 he was elected with forty-nine per cent of the total, but fifty-two per cent of the two-party vote.

Ordinarily, there is relatively little difference in presidential elections between the political behavior shown by the two sets of percentages. The Democratic percentage of the two-party vote naturally is always larger than the Democratic percentage of the total vote whenever minor parties also engage in an election, but with the exception of the changes between 1908 and 1912 and between 1912 and 1916, the magnitude of the fluctuations is practically the same.

In this pattern of political behavior for the country as a whole, the outstanding features are the two cyclical swings. The Democratic tide fell to a low point in 1904, reached a peak in 1912 (or 1916 if measured by the percentage of total votes cast), fell to an even lower level in 1924 than in 1904, and rose to another peak in 1936. Between these two major shifts from one party to the other, the interval is about twenty years. Most of the states reveal this pattern, but some do not at all. Some follow the common pattern, but with wider swings between the low and the high years; others follow the common pattern with less violent swings.

The high lights of American mass behavior in the presidential elections of the past forty years will appear clearly after a close observation of the accompanying charts. The political record for eighteen states in the North East and North Central regions is contained in Chart III; the record for all the Western states is contained in Chart IV; and the record for the Southern states is given in Chart V. The Eastern and Western states shown in Charts III and IV have been arranged in groups of three on the basis of contiguity; that is, each group of three states forms a geographic unit.

The separate records for the eighteen Eastern and Central states repeat, by and large, the national cyclical pattern. All show a relatively small Democratic vote in 1900–04, a high one in 1912–16, another small one in 1924, and another high one in 1932–36.

A closer look will reveal that these cyclical swings vary in magnitude. The smallest variation prior to 1932 appears in Massachusetts, Rhode Island, and Connecticut; Maine, Vermont, and New

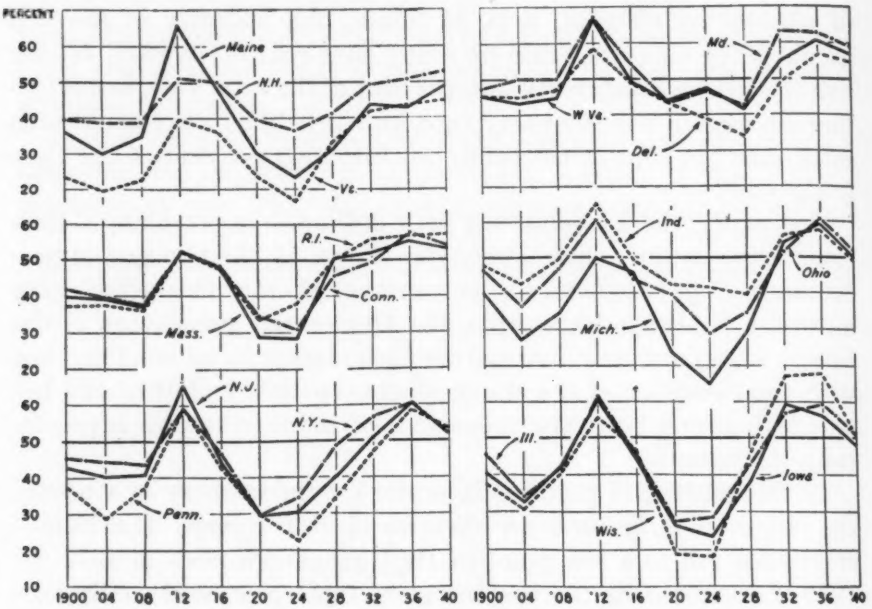

CHART III. PRESIDENTIAL DEMOCRATIC VOTE AS PERCENTAGE OF TWO-PARTY VOTE IN ELECTIONS OF 1900–1940, BY STATES.

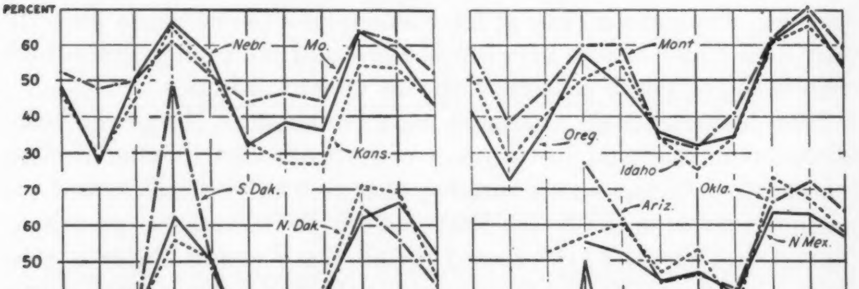

CHART IV. PRESIDENTIAL DEMOCRATIC VOTE AS PERCENTAGE OF TWO-PARTY VOTE IN ELECTIONS OF 1900–1940, BY STATES.

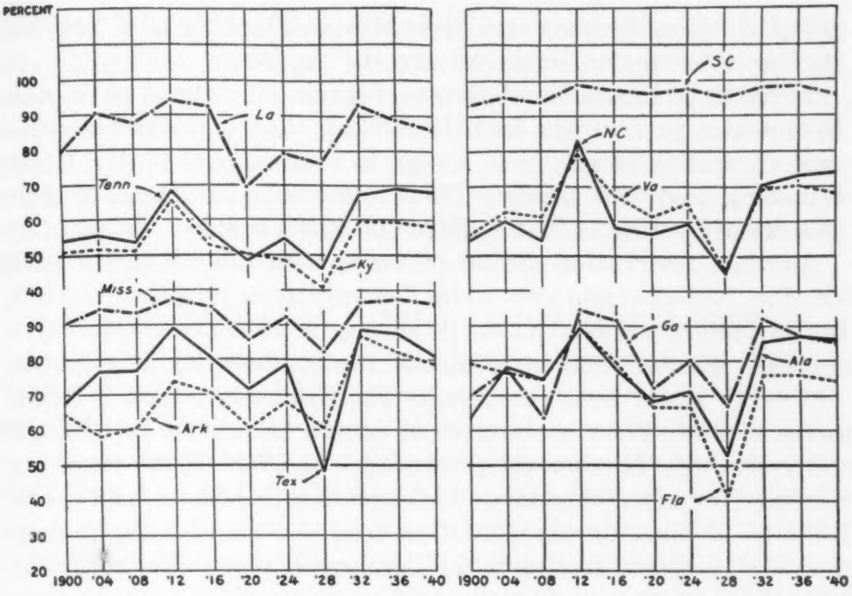

Chart V. Presidential Democratic Vote as Percentage of Two-Party Vote in Elections of 1900–1940, by States.

Hampshire; and Maryland, West Virginia, and Indiana. The North Central states in this group of eighteen have shown the wider fluctuations between the two major parties, with Michigan leading in flexibility.

Some states are normally more Democratic than others; their fluctuations occur around a higher average Democratic percentage than in other states. Vermont voters have, on the average, been about thirty per cent Democratic, voters in Maine around thirty-five per cent, voters in New Hampshire, Massachusetts, Rhode Island, and Connecticut about forty per cent, and in West Virginia about forty-five per cent.

A general view of the records for the eighteen Midwestern and Western states contained in Chart III shows patterns like those in the eighteen Eastern and North Central states, but with two outstanding abnormalities—very high percentages in 1912 for South Dakota and California. In both of these states, the Republican party joined the Progressive (third) party of Theodore Roosevelt, giving to the Democratic party practically the entire vote of the Democratic-Republican total. In this Midwestern and Western group of states, the least variable is Missouri, and the most variable are the states in the Northwest and the Far West.

In the Eastern and North Central regions, all states showed peak Democratic percentages in 1912. This is also true for the Midwestern and Western states except in four states—Idaho, Utah, Wyoming, and New Mexico. These four reached the peak of their Democratic voting in that cycle in the 1916 election.

Another observation should be made with respect to the 1936 election. Not all states went more Democratic in 1936 than in 1932. In the Eastern and North Central states, the 1936 percentages were generally greater than in 1932, but Maine, Maryland, and more noticeably Iowa, were exceptions. The Midwestern and Western group of states show more cases of failure to surpass in 1936 the relatively high Democratic percentages of 1932. These cases are Kansas, Nebraska, Missouri, Oklahoma, North Dakota, and South Dakota. To some extent, this failure seems to have been a reaction from the exceptional swing to the Democratic party induced by the 1932 depression.

The record for the twelve Southern states is quite another story. Not only are the Democratic percentages there usually above fifty per cent, but there is very little correspondence with patterns shown in the records for the other thirty-six states. The most striking record is that for South Carolina, where the Democratic vote has in the last seven elections been ninety-five per cent Democratic or more. The most striking feature common to these states and differentiating their behavior from that of most of the other states is the sharp reduction in the Democratic vote in 1928—an expression of anti-Catholic sentiment against Alfred E. Smith, the Democratic candidate. In each of these twelve states, the 1928 percentages were lower than in 1924. In view of this Southern record for 1928, there is added significance in the fact that Kansas, Nebraska, Missouri, Oklahoma, Arizona, and New Mexico (see Chart III), and in the East, Maryland, Delaware, West Virginia, and Indiana (see Chart II) reached their low point in the political cycle of the 1920's in the year 1928 instead of 1924. In these states, as in the twelve Southern states, we may, even after so cursory a survey, suspect the play of anti-Catholic bias against the 1928 Democratic candidate.[3]

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[3] This specific factor and its power to distort the political patterns in different states, enhancing the Democratic percentages in some of the Northern states and reducing them in the Southern, is dealt with in *Ballot Behavior*, Chap. 9.

The results of the 1940 election fall in very consistently with the regional patterns of the previous forty-year record in the foregoing charts. The outstanding features are: an increase in the Democratic strength in Maine, New Hampshire, and Vermont; the relatively stable results throughout the South; and the relatively greater losses in the Midwestern states than in others. The greater Democratic losses between 1936 and 1940 in the Midwestern-Great Plains states should have been anticipated.

III. THE REGIONAL SHIFT IN THE 1940 PRESIDENTIAL ELECTION

In our statistical study of presidential elections from 1896 to 1936, we pointed out that in the war-time election of 1916 the Eastern and Far Western states voted more Democratic than normal.[4] After pointing out that the fifty-two per cent vote for President Wilson might have been anticipated on the basis of the course of the political tide and business developments after 1914, we concluded that the World War did not have any substantial influence on the national outcome of the 1916 presidential election. What influence the war did have is found in the extent to which the several states departed in that year from their usual relation to the national political temper as a whole. In that election, New England and the South Atlantic and Pacific states voted respectively seventeen per cent, four per cent, and six per cent more Democratic than normal; whereas the Middle Atlantic, East North Central, and West South Central states voted two to four per cent less Democratic than normal. It is now possible to say, in general, that this regional characteristic is also the central feature of the 1940 election. This common regional pattern of voting, when war problems predominate, stands out in the election results in spite of the fact that the psychological environment of the two elections was quite different, and that there were many differences in the way the two campaigns were conducted.

The nature of this regional difference in the response to such questions as war participation, conscription, and aid to Allies can be readily demonstrated by comparing the state results in the 1940 election with the way the different states might normally have voted. The national popular vote this year was fifty-five per cent Democratic. On the basis of past experience, it is possible to indicate what proportion of the total vote in each state might have been expected to be Democratic this year, corresponding to the national

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[4] See *ibid.*, p. 71.

Table II. Democratic Percentage of Two-Party Vote in the Presidential Election of 1940 Compared with "Normal"

	1940 Election *per cent*	*According to Bean Formula if U. S. is 55% Democratic* *per cent*	*Difference*
Ala.	86	82	+4
Ariz.	64	65	−1
Ark.	79	77	+2
Calif.	58	55	+3
Colo.	49	53	−4
Conn.	54	51	+3
Del.	55	51	+4
Fla.	74	74	0
Ga.	85	84	+1
Ida.	55	56	−1
Ill.	51	51	0
Ind.	49	53	−4
Iowa	48	47	+1
Kan.	43	47	−4
Ky.	58	57	+1
La.	86	85	+1
Me.	49	39	+10
Md.	59	58	+1
Mass.	53	48	+5
Mich.	50	48	+2
Minn.	52	53	−1
Miss.	96	95	+1
Mo.	52	57	−5
Mont.	59	61	−2
Neb.	43	52	−9
Nev.	60	63	−3
N. H.	53	47	+6
N. J.	52	52	0
N. M.	57	58	−1
N. Y.	52	51	+1
N. C.	74	68	+6
N. D.	45	54	−9
Ohio	52	53	−1
Okla.	58	62	−4
Ore.	54	59	−5
Pa.	53	49	+4
R. I.	57	51	+6
S. C.	96	98	−2
S. D.	43	47	−4
Tenn.	68	64	+4
Texas	81	84	−3
Utah	62	61	+1
Vt.	45	37	+8
Va.	68	69	−1
Wash.	59	56	+3
W. Va.	57	57	0
Wis.	51	54	−3
Wyo.	53	52	+1

Democratic average of fifty-five per cent. The actual state percentages in the 1940 election and the normal percentages determined from our formula are given in Table II, together with the differences between them. In twenty-four states, the actual percentages differ from those that might have been expected by two points or less. These small differences we may at the present assume as statistically insignificant. It is in the states where the actual vote exceeded the normal by more than two percentage points that we find the interesting regional cleavage.

There are thirteen states in which the Democratic percentage of the vote cast exceeded normal by more than two points. Eleven of these are in the East and two in the Far West. There are eleven states where the Democratic percentages were less than normal by more than two points, and nine of these are in the Middle West and Great Plains area and two in the Far West. These two groups of states are shown in Table III.

TABLE III. STATES IN WHICH THE DEMOCRATIC PERCENTAGES IN THE 1940 ELECTION DEPART BY MORE THAN TWO PER CENT FROM "NORMAL"

Calif.	+3	Nev.	−3
Wash.	+3	Wis.	−3
Conn.	+3	Colo.	−4
Ala.	+4	S. D.	−4
Tenn.	+4	Okla.	−4
Del.	+4	Ind.	−4
Pa.	+4	Ore.	−5
Mass.	+5	Kan.	−5
R. I.	+6	Mo.	−5
N. C.	+6	N. D.	−9
N. H.	+6	Neb.	−9
Vt.	+8		
Me.	+10		

The Great Plains region where the Democratic vote fell short of normal is farthest removed from the Atlantic and Pacific. Isolationist sentiment is known to center here. In the East, where the European war made us most jittery in 1940, we find that the Democratic vote exceeded normal by progressively larger percentages as we go from the Middle Atlantic states to the Canadian border. In New Jersey, for example, the Democratic percentage was about normal; in New York State, one point in excess of normal; in Connecticut, three points in excess; in Massachusetts and Rhode Island, five and six points, respectively; in New Hampshire, six points; in Vermont, eight points; and in Maine, ten points.

The fact that this regional shift in the 1940 election is closely related to the regional differences in the reaction to the problems and questions created by the war is clearly supported by the Gallup poll on the question of aid to Great Britain taken shortly after the election. The greatest opposition to aiding Britain is registered in the East Central and West Central states—thirteen and fourteen per cent, respectively. Only six to eight per cent were opposed in the New England, Middle Atlantic, and Southern states, and only ten per cent in the West. This regional distribution of sentiment against aid to Britain is strikingly similar to the regional shift in the Democratic strength in the recent election.

An examination of the state data raises several interesting questions. In the Corn Belt, there is the striking contrast between Iowa and contiguous states. Iowa, going Republican, was one point more Democratic than normal, but Missouri, going Democratic, and Kansas and Nebraska going Republican, were, respectively, five, four, and nine points less Democratic than normal. Iowa, relative to these states, was about seven points more Democratic. Does this mean that the relatively better economic situation in Iowa than in these other states prevented Iowa from swinging more definitely into the Republican column? Or does it reflect Mr. Wallace's popularity in his own state? A similar question may be raised concerning Oregon and Nevada. Does the fact that these states in the Democratic column fell short of their normal Democratic percentages reflect Mr. McNary's popularity and his drive against reciprocal trade treaties? This obvious explanation might be taken as the correct one without qualification were it not for the fact that in 1916 Oregon was the only Western state to go Republican. In 1940, it went Democratic, but substantially less so than might have been expected on the basis of past experience.

Other questions are raised by the contrasts between Michigan and Wisconsin, and between the New England states and New York and New Jersey. To what extent do the different proportions of the different foreign-born groups in Michigan and Wisconsin explain Wisconsin going three points less Democratic than normal and Michigan two points more Democratic? To what extent do the different proportions of the different nationalities in our voting population account for New Jersey and New York voting close to normal, while the New England states went from four to ten points more Democratic than normal?

It has been suggested that these regional differences, particularly between the central agricultural states and the industrial East and West, may reflect the economic betterment brought about by the European war and the defense program, but not shared by farmers in 1940. This appears a highly plausible explanation; yet the sharp contrasts in contiguous states prevent our accepting this economic argument as the predominant one. The true explanation is undoubtedly a combination of several sets of forces, namely, reaction to war issues and reaction to more jobs and more business, as well as accumulated regional differences in the attitude toward the Administration's recovery programs.

This, of course, means that the regional shifts we have pointed out cannot be looked upon as permanent. It can be shown that they developed after the spring of 1940, particularly after July. For example, the Gallup state-by-state polls during 1940 reveal clearly the progress in the development of the regional shift in response to the war development in Europe and the defense measures taken by the Administration.

Furthermore, the detailed studies we have made of the 1936–40 political shift in numerous counties reveal that the gains made by the Republican candidates were in direct correspondence with the importance of certain economic and nationality groups in the population of those areas. In so far as isolationist sentiment has disappeared in these areas, the recession in the Democratic political tide which set in after 1936 will be held in check in the 1942 elections. If the Democratic party gains seats in this election, it will be chiefly in the Middle West and North Central states.

ANGLO-AMERICAN POST-WAR COÖPERATION AND THE INTERESTS OF EUROPE

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Often it has been asserted that if the United States had stood by her allies after 1918 and joined the League of Nations, peace in Europe would have been secure. While this overstresses the point, it is certainly true that the lack of unity among the victors, both at Versailles and afterwards, deprived the world of anything like a center of coördination and leadership. Even the Concert of Europe of bygone days could claim greater authority than a League from which five out of seven great powers were either permanently or temporarily absent, and in which the two remaining powers, Britain and France, were rarely in agreement.

In view of this experience, it makes sense to regard continued coöperation between at least some of the important allies of this war, assuming the defeat of Hitler and his partners, as being an essential prerequisite for a more durable peace. If at least the two great English-speaking powers could form between themselves a solid partnership, so it is argued, would not their combined strength and their supremacy of the seas quite naturally attract other nations into their orbit and thus enable them to preserve the order and peace of the world? Their rôle is envisaged as a kind of enlarged replica of that which the British Empire fulfilled with no little success throughout most of the nineteenth century.

Whether an Anglo-American *bloc,* whatever its other merits or disadvantages, would live up to these expectations would depend to a large degree on the way other nations reacted. If they were so hostile to it as to sink their differences and to line up in opposition, the world might again be dangerously split into antagonistic *blocs.* On the other hand, if these countries found the new combination to their advantage, the United States and Britain might be in a position of effective leadership. When it comes, therefore, to deciding from the point of view of American interests whether this country should follow a course of close affiliation with Britain after the war, the repercussions of such a course in the countries of Europe—and also in other continents—would have to be carefully weighed.

Europe after this war—assuming that the United Nations succeed in defeating the Axis—will consist of a ring of lesser powers surrounding a temporarily impotent but potentially predominant Germany. This ring of powers will at the same time find itself pressed in between the Soviet Union in the East and, according to our assumption, an Anglo-American *bloc* in the West. It is with this constellation in mind that we must seek to analyze Europe's future relationship with its Western neighbors.

If the statesmen of the United States and Britain had nothing to go by except their guesses as to future emotional and subjective reactions of European public opinion, they would be forced to build on shifting sands. Not only is public sentiment toward the English-speaking countries highly diverse, but it is likely to undergo far-reaching changes once the war is over. There exist at present two distinct and diametrically opposed currents of opinion. The Germans and their friends in the Axis and in other European countries have, on the one hand, come to regard the Anglo-American powers as their worst enemies. They accuse these powers of interfering in the affairs of the Continent and of trying to keep it disunited and subservient to their interests. The opposition camp, of unknown but undoubtedly very extensive dimensions, on the other hand, expects that liberation and independence for the countries of Europe will come as a result of a victory of Britain and the United States. It would gladly today accept Anglo-American supremacy in place of the present Nazi domination.

Should Hitler be defeated, the first group, which will rightly or wrongly be accused of Nazi leanings, would certainly dwindle. But it would be a mistake to assume that it would vanish entirely, or to believe that it could not gain strength again. It might do so, for instance, if Europe should suffer severely from the aftermath of the war or from the evils of an unfortunate peace settlement. How tempting it would be to throw the blame for Europe's ills on the Anglo-American victors, or to appeal to the spirit of continentalism or Europeanism, which the Germans are seeking to awaken and spread among the people of Europe today, with what success we do not know!

The friends and supporters of the English-speaking countries would gain strength at first, while the feeling of gratitude toward the liberators and the common hatred of Nazism was still alive. But people's memories are short. Recriminations and disappointments are the rule between war-time allies. The small powers might feel that not enough of their independence had been restored; the liberated countries might not have been given enough opportunity for revenge. Among the masses who by their revolt might have aided the United Nations, resentment might spread if the future order were not as Socialist or as Communist as they had expected. In general, it is safe to assume that the initial friendly sentiments would cool off or disappear unless the benefits of coöperation with the great Western powers outweighed the advantages which any other course might offer.

This means that in the long run the effect of close Anglo-American partnership on vital interests of the European nations would be the decisive factor. The more these interests were served by such a power combination on the Atlantic, the more likely Europe would be to respond with friendly sentiments and policies of coöperation.

The interests of the various European powers naturally show wide divergence. But these powers do have a number of vital common interests—and interests, at that, which would be materially affected by the formation of an Anglo-American *bloc*. With the single exception of Germany, all the nations of Europe will after this war be interested in gaining as much protection as possible against any future recurrence of German aggression and expansion. All of them—this time including Germany—will be as keen as ever to retain their independence and to escape either Russian or Anglo-American domination of the Continent. All of them—still including Germany—will clamor for economic opportunities beyond the narrow limits of Europe and strive to regain the prosperity which an era of wars, revolutions, and depressions has so thoroughly destroyed. In what way, then, would the formation of an Anglo-American *bloc* tend to help or hinder the countries of Europe in attaining their objectives?

The answer is paradoxical, not only in the sense that Anglo-American coöperation carries with it dangers as well as advantages, but also because these dangers are due both to the strength and to the weakness inherent in this Anglo-American combination. The problem is how to restrain and at the same time supplement the power at its command.

A defeat of the Axis and Japan would automatically put the control of the oceans and sea communications in the hands of the two English-speaking sea powers. Whether, with the development of land-based air power, such supremacy of the seas could be made permanent and made to extend over inland seas like the Baltic or

Mediterranean, cannot be discussed here. Certainly, if their policies were closely coördinated, the United States and Britain should be capable of maintaining and protecting sufficient naval and air bases to be able at will to cut Europe's communications with the rich raw-material producing countries of the Southern Hemisphere. In so far as the European powers need access to these resources and markets for their welfare, as well as for their armaments, they would become dependent on the policies pursued by the Anglo-American *bloc.*

Such dependency could easily become the source of resentment and antagonism. British supremacy of the seas in the nineteenth century was accepted with relatively little opposition only as long as it went hand in hand with liberal trade policies. Liberalization of trade might again serve to justify and make acceptable the proposed joint Anglo-American control of the sea lanes. By promising to "further the enjoyment by all states . . . of access on equal terms to the trade and to the raw materials of the world," the Atlantic Charter is predicated on just such a policy. The difficulty in reconciling a liberal trade policy with the widely advertised needs of national planning cannot, however, be overlooked. Certainly British practice in the thirties and much of America's economic policy, even in the days of Hull's trade agreements, does not indicate strong popular support for a policy of liberalization.

The other countries would therefore be bound to be skeptical and unwilling to base their attitude merely on their confidence in British or American good faith and intentions. Furthermore, experience with Latin America has shown how difficult it is to bring weaker countries to accept the idea of one-power hegemony. But it has also shown under what circumstances these weaker powers are most likely to find themselves protected from any abuse of hegemonic power and by what means the predominance of one power can be made most acceptable to them.

The Anglo-American *bloc* might profit by this lesson and seek to apply the principles of the "good neighbor" policy to as many countries as possible. It might, for instance, by having others share common air and naval bases, turn its supremacy over the Atlantic into a coöperative control by all the Atlantic powers. As in the earlier case of Latin America, such a policy would not have to depend merely on Anglo-American generosity or fidelity to proclaimed principles. American and British self-interest, if interpreted wisely and far-sightedly, would require such a course. Any abuse of power on their part would threaten them with another alignment of hostile powers such as they are so desperately fighting today. And even before the crisis reached the stage it now has, air and naval competition and drives for colonial expansion would again disturb the peace of the world, and new efforts at economic self-sufficiency would undermine any prosperity.

That such dangers could arise shows that Anglo-American power, even if combined, is still limited and balanced. Europe, like Latin America, therefore, need have little fear for its economic independence. If it refused to place its trust in the governments and peoples of America and Britain, it could rest confident that a world balance of power would protect it from abuses which the Anglo-American *bloc* might otherwise be tempted to make of its privileged position.

There is more reason for Europe to be alarmed about the weaknesses inherent in an Anglo-American combination. Seen from Europe, Britain and the United States are islands separated by the ocean from the European mainland. What influence they could exert to assure military and political security to Continental powers would have to come largely as a result of the naval and aërial power which they could bring to bear across the waters. The limitations of such power are overlooked by those who advocate future Anglo-American hegemony on a world-wide scale. Navies alone, as this war and the previous one have shown, are not sufficient to bring victory, even when capable of establishing an effective blockade. The threat of cutting overseas communications would therefore also be insufficient to prevent trouble on the Continent or to protect the weaker countries from aggression. Even in the nineteenth century, when there were no air forces to hamper naval action, Britain's influence on the Continent was dependent on her ability to find allies there. Often she has been accused of intentionally keeping the Continental nations divided, and of using some of them to fight her battles for her.

It has been argued that if the Anglo-American *bloc* were to add air superiority to its naval supremacy, it could effectively police Europe and enforce peace. But there is little reason to believe in the practicability of such a plan. Unless Seversky be proved correct and the flying radius of fighter planes be increased beyond all present expectations, the powers of Europe cannot be controlled from airfields outside of the Continent, whether they be located on the British Isles or on the northern shores of Africa. Therefore, Anglo-American air superiority in Europe would require not only the possession of air bases on the Continent itself, but also enough military power available there to defend those bases. Unless the Anglo-American *bloc* were ready to establish permanent military garrisons of its own in Europe—hardly a tempting proposition—its air superiority would depend on whether it had allies on the Continent able and willing to put sufficient military power into the field.

There are other reasons why support from a strong land power would prove a prerequisite for effective Anglo-American influence and intervention on the Continent. If air enthusiasts believe that would-be aggressors could be deterred by the threat of air bombardment, they overlook the psychological difficulties standing in the way of police action by means of air forces. The Anglo-American *bloc* might threaten Germany with a bombardment of her cities and factories if she started to rearm. But what if the Germans called this bluff, trusting that the peoples in the democratic countries would not stand for such brutal acts in times of peace? It would certainly be an unenviable task to have to use air bombardments as a sanction for international agreements. Nor would countries in which Anglo-American air bases were situated feel secure unless they had superior land power on their side.

To deter the powers on the Continent from breaking the peace and to protect its bases of aërial and naval strength, the Anglo-American *bloc* would therefore be forced to widen its alignment to include one or more countries possessing land power on the Eurasian continent and thus not hampered by the limitations of insularity.

In a way, it is an advantage for the European countries that the Anglo-American *bloc* would need the help of Continental allies. It proves that there would be no danger of Anglo-American domination of the Continent. Also, the small countries, particularly those on the western fringe of Europe, which would be in greatest need of Anglo-American guarantees, would profit by the fact that, to some extent at least, the need for assistance would be mutual. This would give them some bargaining power and prevent them from becoming mere satellites or dependencies.

But there is another side to the picture. The only country on the Eurasian continent that has sufficient land power is the Soviet

Union. It is to her that an Anglo-American *bloc* would have to turn. Britain has done so already. In signing a twenty years' alliance with Russia, she has sought, certainly, not to substitute the Soviet Union for the United States, but to supplement whatever post-war agreement she may be able to reach with this country. To the European countries, such an alignment should be welcome, since an Anglo-American *bloc* alone would not offer them sufficient protection against Germany. Yet, on the other hand, those same countries might fear that Soviet assistance would some day degenerate into Soviet domination. There is no water barrier in the East as there is in the West. Much would depend, therefore, as far as their security is concerned, on whether the United States and Britain were able and willing to hold Russia in check.

This seems to create a perplexing dilemma. The same countries that would favor an alignment between an Anglo-American *bloc* and the Soviet Union as a means of keeping Germany in her place would, at the same time, expect to be protected against her. That was Poland's difficulty before the war. Fortunately, the contradiction is not insuperable. Countries that line up with Russia for the sake of their common defense and the defense of others can, at the same time, put restraints on their ally. It has even been contended that this is one of the most wholesome features of any alliance.

The recently signed Anglo-Soviet Treaty of Mutual Assistance would tend to confirm this argument. The two powers have committed themselves explicitly "to act in accordance with the two principles of not seeking territorial aggrandizement for themselves and of non-interference in the internal affairs of other states." These are self-denying limitations of the use of their respective power. If the two countries live up to this agreement, or are strong enough to force each other to comply with these principles, the countries of Europe will be safe from infringement of their independence and integrity. But they would not be the only ones to profit. Whether it be Britain or an Anglo-American *bloc* that enters upon such an agreement with the Soviets, the benefits are bound to be great for all the parties concerned. Without it, there would be danger that the peace of the world would be disturbed either by interference in Europe and subsequent revolt or by a clash between the Soviet Union and the English-speaking countries. Russia, feeling insecure, might insist on establishing air bases and garrisons on the territory of countries in Eastern and Southeastern Europe; soon the Anglo-American *bloc* would feel obliged to follow suit, and to protect itself by similar moves in Western and Southern Europe. The threat of being torn apart by rival powers in the West and the East would hang over Europe.

If, instead, the United States, Britain, and the Soviet Union should stand together and guarantee Europe against outside interference as well as against aggression from within, they would be creating between their respective realms a kind of cushion or buffer zone. Friction between them would be held at a minimum. But this does not mean that they should aim at the creation of a unified Europe or European federation. Neither the United States and Britain nor Russia would have any interest in doing so. On the contrary, a European *bloc* would naturally center in Berlin and its German heartland, and would in time renew the dangers against which the United Nations are fighting today. For the sake of their own security, both the English-speaking powers and the Soviet Union would be interested in protecting the independence of the countries that form the European ring and in aiding them to build up their own strength and defenses. The better these countries were able to check Germany themselves, the less they would need outside help and the less also would they be in a position of resenting their dependency on others.

To the objection that such a policy would lay obstacles in the path of European union and thus stand in the way of a healthy and necessary development, it must be said that the continued existence of a multitude of independent states on the Continent could not be blamed either on the Anglo-American *bloc* or on the Soviet Union. There is, so far at least, no indication that the European powers themselves desire to merge with the Germans into a supra-national union or federation. Only if they were left without any protection or denied the right of independence could Germany hope to draw them into her orbit. The Nazis have destroyed the chances of that for a long time to come. The Anglo-American *bloc* or the Soviet Union could unite Europe only by coercion such as Germany is applying today.

Thus, while an Anglo-American *bloc* would be interested in promoting a European set-up that should be both secure and well-balanced in itself, the countries of Europe would find the surest guarantee of their political independence, as well as of their economic independence (as mentioned earlier), in a balance of power between their great neighbors in East and West. Living under the shadow of Russian power, Europe's chief concern would be whether the Western powers were sufficiently strong to put a brake on the Soviets. Certainly they would feel that Britain alone could not hope to do so. They would, therefore, have every reason to welcome a solid combination of American and British power. This is true, at least, if we assume that the formation of such a *bloc* would strengthen Britain's hand on the Continent. Certain steps would have to be taken to assure this.

Whereas Anglo-American coöperation would draw the United States closer to Europe, it would at the same time tend to separate Britain farther from the Continent. An alliance is not a one-way affair. The United States, like the Dominions in the period after the first World War, would wish not to become unnecessarily entangled in European affairs. They would want Britain to limit her commitments in Europe as much as possible. The situation would be like that which existed between Britain and France after 1919. At that time Britain was seeking to prevent France from becoming too deeply involved in the affairs of Central Europe. While Europe might, therefore, find Britain's hand strengthened in matters concerning Western Europe, there might be greater reluctance on the part of Britain to exert influence in what would be for her—and even more for the United States—the remoter regions of the Continent. The speed and energy of her action in case of troubles in the Danubian region or the Balkans, for instance, might be lessened if she came to depend on the decisions of her distant, less interested, and far less immediately threatened, ally across the ocean.

The remedy most widely advocated for the effects of such remoteness carries the name of collective security. It calls upon nations to commit themselves to the defense of all victims of aggression without regard for geographical propinquity. But it is doubtful whether the American government and people would be willing either to make such general and far-reaching commitments or, if they did so, to live up to their pledges. It is hard to imagine a vote by the United States Senate approving what—if it were called by its proper name—would amount to an unconditional promise of military assistance to every potential victim of aggression.

The alternative to collective security does not need to take the form, however, of absolute aloofness from countries lying outside the zones of immediate vital interest. Within an Anglo-American *bloc,* Britain and the United States might undertake to serve as guarantors of peace in regions in which the other partners to such a *bloc* would not be ready to commit themselves. Thus, Britain might be given a kind of mandate to offer guarantees to countries in Central and Southeastern Europe. Being allied to Britain, the United States and the Dominions would be obliged, however, to support Britain if in consequence of her assistance to those countries her own security became endangered. While this would create an indirect and conditional "entanglement" for the whole *bloc,* it might still be more readily acceptable than any blanket commitment on behalf of *all* of Europe. Similar "mandates" might in turn be given to the United States and the Dominions in regard to regions more important to them than to Britain.

Our discussion has shown that, notwithstanding many difficulties, the interests of an Anglo-American *bloc* could be made to harmonize with those of Europe's ring of powers. Whether Germany, too, could be brought to see advantages in a set-up such as we have envisaged would depend on many circumstances, and would require separate treatment. This, and many other aspects of the problem, would have to be considered before all the effects of a close Anglo-American affiliation on both American interests and world peace could be evaluated.

One further point may be noted. Throughout, we have been assuming that the post-war world will continue to be governed by the national policies of the great powers, and that these policies will be dictated primarily by what these countries believe to be their vital interests. For this reason, the emphasis has been on the strength and weakness of nations and on the distribution and future use of power. If, instead, we had postulated the establishment of a world government or world federation, the relation between Europe and an Anglo-American *bloc* would have appeared in a totally different light.

But to assume the continued predominance of considerations of the national interest does not imply that the United States and Britain, once they decided to pool their strength and resources, would be left with no choice of policy or would be condemned to adopt an egotistical *Machtpolitik.* We have tried, on the contrary, to show how much their own security, as well as that of others, would depend on whether they had the wisdom and far-sightedness to combine firmness with self-restraint and to include others in their partnership.

We can go further and say that an Anglo-American *bloc,* with its power and privileges, would be certain to lack popularity and support if it did not prove itself capable of promoting world peace by helping to develop effective international organization where it was needed. Given the temper of the American people, it may even prove impossible to organize Anglo-American coöperation—to say nothing of Russo-American coöperation—except under the more universal auspices of some league or association of powers.

Yet it would be naïve to believe that even the most promising and generous Anglo-American plans for international government or coöperation would find much sympathy or credence in Europe unless at the same time the use which—league or no league—an Anglo-American *bloc* was expected to make of its power augured well for the interests of the European countries.

STATE CONSTITUTIONAL LAW IN 1941–1942*

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I. GOVERNMENTAL ORGANIZATION AND PROCEDURE

Executive Reorganization. In long and highly controversial opinions, the majorities of the Indiana and Louisiana supreme courts invalidated state administrative reorganization plans of a type whose constitutionality might conceivably have been treated as political questions. The Indiana controversy grew out of the repeal, over a Democratic governor's veto, of the Executive-Administrative Act of 1933. In place of an administration consolidated into eight departments, each directly responsible to the governor, the Republican legislative majority substituted an organization of four departments—state, audit and control, treasury, public works and commerce—each headed by a hybrid board composed of the governor and two elective administrative officers, or one administrative officer, the governor, and the lieutenant-governor. Existing tenures were terminated and powers of appointment were expressly given to the respective three-man boards.

Upon adjournment of the legislature, this sweeping "reorganization" was immediately attacked on the grounds that it wrested authority from the governor and unconstitutionally delegated executive power to ministerial officers. Operation of the acts was enjoined in the lower court. On appeal, a divided supreme court declared the repealing statute unconstitutional. The heart of the majority opinion was the syllogism that under the Indiana constitution executive power, "including the administrative," is vested, not in the executive department, but in the governor; that the appointive function is an exercise of the executive power; and hence only the governor may appoint. The decision thus rested on a rigid separation of powers, and derived aid and comfort from Chief Justice Taft's opinion in Myers v. United States.[1] To reach its conclusion, the majority was obliged to distinguish and overrule numerous Indiana precedents and to concede that in practice the appointive power was one exercised by all three departments.

An able dissenting opinion exploited these inconsistencies and roamed even more widely through state and federal precedents. Without approving the governmental policy of the statutes, the opinion denied that the appointive power was exclusive or that the rule of the Myers case was either binding or historically sound. Other critics were quick to emphasize that the Indiana constitution nowhere grants express power of appointment to the governor, and to point out that the rule is almost universal that appointive power is not vested in the governor in the absence of constitutional or statutory grant of power.[2] The immediate effect of this decision was to leave the entire administrative organization in a state of chaotic uncertainty, with doubt raised not only as to the validity of other acts, but as to whether the administrative organization automatically reverted to that which existed prior to, or after, the Executive-Administrative Act of 1933. Viewed from almost any angle, the situation was unfortunate. It would seem that in days of crisis, popular government deserves better of its friends.[3]

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* Howard Jay Graham, research fellow in political science, University of California, gave invaluable aid in the preparation of this article.

[1] 272 U.S. 52 (1926).

The Louisiana decision was equally striking. Here for the first time the state supreme court declared unconstitutional a constitutional amendment. This amendment had been adopted almost unanimously by the legislature and had been approved by popular vote. It was in fact the keystone of Governor Jones' reform program. Yet the court permitted its validity to be challenged by an ordinary taxpayer's suit.[4] Executive reorganization, a unified system of state finances, and an administrative and financial code were held defective on the technical grounds, first, that the legislature, in contravention of an explicit constitutional provision, had failed to designate the election at which the amendment was to be submitted, and second, that the amendment embraced more than one subject.

Had the court confined itself to the first point, little might have been said in criticism other than that courts exercise wide discretion in passing on obvious oversights,[5] especially where enactments have been ratified by popular vote. However, the majority proceeded with a minute examination of the ordinance and undertook to show that such "distinct and separate subjects" as financial administration and executive reorganization had been compounded in the same measure; moreover that these could not logically be viewed as parts of a single reform or plan. In conclusion, the majority stressed that the popular margin in favor of the amendment had been "only 6,667."

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[2] *Indiana Law Rev.*, Vol. 17, p. 139, n. 49 (Dec., 1941).

[3] Tucker, Secretary of State, *et al.* v. State *et al.*, 35 N.E. (2d) 270 (Ind., June, 1941). A Florida statute that provided for appointment of certain state officers by the governor "by and with the consent of the senate" was sustained despite the provision of the constitution that authorized the legislature to provide either for the election of the officers or for their appointment by the governor. Advisory Opinion to Governor, 2 So. (2d) 372 (Fla., May, 1941).

[4] Formerly, and prior to the United States Supreme Court's decision in Frothingham v. Mellon, 262 U.S. 447 (1923), the Louisiana court had held that a taxpayer's interest was too remote to permit him to challenge the constitutional validity of legislation. This view, reversed in Borden v. Louisiana Board of Education, 123 So. 655 (1929), was again repudiated in the present case.

[5] Of the 28 proposed amendments voted on at the same time, only one lacked the clause designating the election date.

The chief justice concluded a forceful dissenting opinion with the observation that "the Constitution of the United States guarantees to every state in the Union a republican form of government." The action of the majority seemed to him likely to tax the people's understanding of President Lincoln's high resolve regarding popular government.[6]

Executive: Public Officers. The provision of the Kentucky constitution which limits salaries of all public officers except the governor to a maximum of $5,000 a year operated to prevent the Louisville director of finance, whose salary was $4,999.92, from serving as accountant and financial adviser of the Louisville housing authority at a salary of $3,600. The argument that the latter job was an "employment" failed to impress the court.[7]

A ruling on the provision in the Florida constitution against multiple office-holding was neatly side-stepped by the state supreme court. A statute which made the chairman of the state road department a member of the state planning board was held merely to have imposed additional duties on the chairman.[8]

Executive: State Officers in National Service. The demands of defense and war have called for a reëxamination of certain phases of the law of public officers.[9] Does a state constitutional provision against dual, i.e., state and national, office-holding serve to terminate one's state office on one's being called into the armed forces of the United States? Would the same rule apply to a state officer accepting a non-military appointment under the national government? The answers have varied. The Pennsylvania supreme court held that an officer in the reserve corps called into active service automatically forfeited any state office he held at the time of the call.[10] A contrary decision was handed down by the California supreme court. Under the state constitutional provision that "no person holding any lucrative office under the United States, . . . shall be eligible to any civil office of profit under this state . . . ,"[11] a taxpayer brought suit to have the office of chief engineer of building and safety of Los Angeles county declared vacant on the ground that the occupant was on leave, although without pay, while serving as major in the Marine Corps Reserve called to active duty. The court unanimously rejected the view that service with the United States constitutes a forfeiture of the county office. The fact that the legislature had passed emergency statutes to protect the civil rights of persons in military or naval service caused the court to view the statute liberally. The object of the constitutional provision was to prevent dual office-holding by one person under two separate governments. Thus, while the grant of a leave of absence did not terminate the engineer's appointment, it did serve to suspend his occupancy of the office. Consequently there was no constitutional incompatibility, and the taxpayer's suit failed.[12]

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[6] Graham *et al.* v. Jones *et al.*, 3 So. (2d) 761 (La., June, 1941). With regard to the constitutional powers of the legislature to amend or repeal a popularly initiated law, see State *ex rel.* Strutz, Attorney-General, v. Baker, State Auditor, *et al.*, 299 N.W. 574 (N.D., July, 1941).

[7] City of Louisville v. German, 150 S.W. (2d) 931 (Ky., June, 1941).

[8] Advisory Opinion to Governor, 1 So. (2d) 636 (Fla., April, 1941). See also Jackson, Mayor, v. Cosby *et al.*, 22 A (2d) 453 (Md., Nov., 1941).

[9] The California supreme court declared that references in the constitution to "officer" refer to a governmental officer. "But it does not necessarily follow that military . . . officers are governmental . . . officers." Martin *et al.* v. Riley, State Controller, 123 P. (2d) 488 (Cal., Mar., 1942).

[10] Commonwealth *ex rel.* Crow v. Smith, 23 A (2d) 440 (Pa., Jan., 1942). The court distinguished Kennedy *et al.* v. Cook, 146 S.W. (2d) 56 (Ky., Dec., 1940), mentioned in the 1941 state constitutional law survey in this REVIEW, Aug., 1941, p. 690. See also 132 A.L.R. 251.

[11] Cal. Const., Art. IV, Sec. 20.

A decision of the Wisconsin supreme court was of special interest. The state treasurer refused to favor a warrant drawn for the salary of Clarence A. Dykstra as president of the University of Wisconsin. He contended that Mr. Dykstra's position as administrator of the Selective Training and Service Act of the national government was constitutionally incompatible with his state position. In an action brought by the state attorney-general, the supreme court upheld Mr. Dykstra's right to occupy both positions. Of the two, the national employment alone was held to be a public office within the meaning of the state constitution. The president of the University was to be regarded as an employee of the state, not as an officer. It was conceded that the president became *ex officio* a member of the Board of Regents of the University, and that an appointed regent "might be" an officer. But the court saw no significance in the term "*ex officio*"—the president of the University was merely an employee of the state.[13]

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[12] McCoy v. Board of Supervisors of Los Angeles County *et al.*, 114 P. (2d) 569 (Cal., June, 1941). The court in the Smith case discussed above examined this opinion of the California court, but looked upon it as exceptional and refused to follow it. A statute which provided limited compensation to state or local officials called into national military or naval service was sustained by the New York Court of Appeals. The judges apparently were dubious whether "war service to the nation in itself alone" constituted a state or municipal purpose, but they upheld the law as a constitutional device similar in purpose and character to recently sustained pension systems. The court declared that the legislation granted no gratuities; rather, it was devised to secure the continuance in office of able officials, and to recognize and reward fidelity of service. Hoyt v. Broome County (Bennett, Attorney-General, Intervenor) 34 N.E. (2d) 481 (N.Y., May, 1941).

[13] Martin, Attorney-General, v. Smith, State Treasurer, 1 N.W. (2d) 163 (Wis., Dec., 1941). The Texas supreme court held that a member of the Texas legislature who was also a member of the National Guard did not lose his constitutional per diem compensation as a legislator on being called into active army service. A statute that limited the compensation of state officers and employees in military service to twelve days in any year was held not to apply to legislators. Spears v. Sheppard, 150 S.W. (2d) 769 (Texas, April, 1941).

Executive: Governor's Veto Power. A concurrent resolution of the Michigan legislature designed to put into immediate operation statutes which had contained no "immediate effect" clauses was held invalid on the ground that it deprived the governor of power to consider whether the legislation could properly be classed as emergency legislation at the time he granted his approval.[14]

Executive: Governor's Power to Pardon: The Iowa supreme court held a statutory provision which established "good moral character" as one of the qualifications for civil service employment, and which disqualified therefrom any person convicted of a felony, to be unconstitutional as applied to one who had received a full pardon. In a divided opinion, the court held that the constitution vests the pardoning power exclusively in the governor, and that the result of the statutory provision was to establish "a conclusive presumption that a person . . . convicted of a felony is not of good moral character." Furthermore, the act imposed legal consequences and disabilities from which plaintiff had been exempted. The pardon "not only removed the statutory penalties prescribed for the crime of larceny, but also prevented other disabilities and penalties from attaching because of the fact of conviction."[15]

Legislature: Reapportionment. Efforts to force legislative reapportionment failed again in Illinois. The state supreme court ruled that a suit to restrain the expenditure of election funds was an attempt to have the court pass on a purely political question. Commands of the constitution relating to freedom and equality of elections were deemed to be addressed to the legislature and, hence, were judicially non-enforceable. The 1901 Congressional Apportionment Act which created the present districts could not be rendered invalid by population shifts.[16]

Legislature: Salaries. State courts divided in their attitudes toward legislators' efforts to provide additional compensation for themselves in the face of seemingly clear constitutional restrictions against increases in legislative pay. An Ohio law that provided each member with a weekly travel allowance of five cents a mile to and from his place of residence regardless of his actual expenses was sustained by an appellate court despite the constitutional declaration that "the members . . . of the General Assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in payment of postage or otherwise; and no change in their compensation shall take effect during their term of office." The seeming repugnance between law and constitution was reconciled by holding the "travel allowance" to be a part of the legislators' compensation.[17]

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[14] United Ins. Co. v. Rushton, Attorney-General, *et al.*, 1 N.W. (2d) 510 (Mich., Jan., 1942). The validity of two vetoes that were imposed by the president of the senate as acting governor in the absence of both governor and lieutenant-governor was unsuccessfully challenged in Walls *et al.* v. Hall, Secretary of State, 154 S.W. (2d) 573 (Ark., Oct., 1941).

[15] Slater v. Olson, Chairman, Civil Service Commission *et al.*, 299 N.W. 879 (Iowa, Sept., 1941). Cf. Prichard v. Battle, director of division of motor vehicles, in which the denial of a license to operate a motor vehicle was held to be neither a penalty nor a part of punishment within the meaning of the state constitution. Thus, a full and complete pardon granted to the operator of a motor vehicle whose driver's license had been revoked following his conviction of a crime in connection with the operation of an automobile did not operate to restore his right to drive an automobile. 17 S.E. (2d) 393 (Va., Nov., 1941).

[16] Daly *et al.* v. Madison County *et al.*, 38 N.E. (2d) 160 (Ill., Nov., 1941). For a discussion of the mathematics of legislative reapportionment, see Shaw *et al.* v. Adkins, Governor, *et al.*, 153 S.W. (2d) 415 (Ark., July, 1941).

In contrast, the Idaho supreme court made short work of a statute which attempted to provide living expenses for legislators while in state service.[18] The case is doubly interesting in that while the Idaho law was modeled on that of Washington sustained the year before, the court took no notice of the precedent.[19]

Legislature: Title and Subject of an Act. A Kentucky statute whose title related only to custody and maintenance, but whose body contained a provision empowering counties to acquire property was held to be defectively titled.[20] Similarly, an act of the Louisiana legislature which created the state crime commission and empowered it to investigate government departments, commissions, and boards, and which also authorized the supreme court, on request of the governor, to transfer judges, was invalidated on the same ground.[21] Yet a general governmental appropriation bill which provided for the issuance of certificates of indebtedness for the construction of buildings at a state hospital, which increased state liquor taxes, and which limited the sale of wine to licensed liquor stores was held to be within the constitutional requirement that "every act . . . shall relate to but one subject."[22]

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[17] State *ex rel.* Harbage v. Ferguson, Auditor, *et al.* (Court of Appeals) 36 N.E. (2d) 500 (Ohio, July, 1941).

[18] Peck v. State, 120 P (2d) 820 (Id., Dec., 1941).

[19] State *ex rel.* Todd *et al.* v. Yelle, State Auditor, 110 P (2d) 162 (Wash., Feb., 1941). See this REVIEW, Aug., 1941, p. 685.

[20] Kenton County *et al.* v. City of Covington, 154 S.W. (2d) 540 (Ky., Sept., 1941).

[21] Stewart *et al.* v. Stanley, Attorney-General, *et al.*, 5 So. (2d) 531 (La., Dec., 1941). The constitutional requirement that an act of the legislature shall not embrace more than one object is not applicable to joint resolutions proposing constitutional amendments. Guillory v. Jones, Governor, *et al.*, 1 So. (2d) 65 (La., Mar., 1941). In the case of Dornacker v. Strutz, Attorney-General, a North Dakota "juke box" tax act was held unconstitutional because the reference in the title of the act to "amusement games" was not broad enough to cover "juke boxes." 1 N.W. (2d) 614 (N. D., Jan., 1942). See also Beckham County Excise Board v. Lowdin, 117 P. (2d) 109 (Okla., Sept., 1941) invalidating a section of a statute whose title referred only to population figures based on the 1930 census but whose body related to succeeding censuses as well; and State. v Beaver Portland Cement Co., 124 P. (2d) 524 (Ore., Apr., 1942) voiding a statute that prohibited obstructions in the Rogue River but failed to mention the fact in the title.

Legislature: Local and Special Laws. Acts of the 1941 West Virginia legislature which reopened previously rejected claims against the Workmen's Compensation Fund were invalidated as special legislation and as an infringement of judicial power.[23] Indiana's Skip Election Law, which provided that city elections in all except cities of the first class should be held in 1943 and in each fourth year thereafter, rather than in 1942 and each fourth succeeding year, was also held void. The fact that Indianapolis alone was thus excepted was held to make the act special legislation.[24]

Judiciary. Whether municipal judges and justices of the peace who receive fees only in event the defendants tried before them are found guilty can be said to have a pecuniary interest in their verdicts sufficient to warrant disqualification is a question which has been variously answered in recent years. Weighing Tumey v. Ohio[25] against contrary holdings by the courts of Georgia and Texas, the supreme court of Florida rendered a decision which required modification of the fee system in that state. Public policy rather than a specific constitutional provision was held to invalidate the conditional fee.[26]

The Electorate. Should an absolute immunity from actions for libel and slander, similar to that granted legislators, be extended to appointees who prepare the official arguments on referenda? Should such an immunity extend to an allegedly defamatory statement, "This 310-million-dollar pension plan is sponsored by Herbert Bigelow of Cincinnati, paid lobbyist for the Single Tax Movement?" Both of these questions, raised by a suit against the authors of the official arguments opposing the defeated Bigelow amendments, were in effect answered affirmatively by the Ohio supreme court. The state constitutional provision granting immunity to legislators was deemed "to recognize rather than restrict the existence of occasions of absolute privilege." Since the function of preparing and circulating arguments was analogous to legislative debate, a like immunity was recognized.[27]

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[22] Crouch v. Benet *et al.*, 17 S.E. (2d) 320 (S.C., Nov., 1941).

[23] Truax-Traer Coal Co. v. Compensation Commissioner *et al.*, and five other cases, 17 S.E. (2d) 330 (W.Va., Nov., 1941). A North Carolina statute requiring county officers of counties of less than 85,000 population to bring suit for claims within six months was also held to offend a special legislation clause. The exemption of the four larger counties was deemed arbitrary and unreasonable. Gillespie v. Pickens County, 14 S.E. (2d) 900 (N. C., May, 1941). See also Anderson, County Judge, *et al.* v. Wood, Sheriff, 152 S.W. (2d) 1084 (Texas, May, 1941), and this REVIEW, Aug., 1941, pp. 703–4.

[24] Ettinger v. Studevent, 38 N.E. (2d) 1000 (Ind., Jan., 1942).

[25] 273 U.S. 510 (1927).

[26] Rollo v. Wiggins, 5 So. (2d) 458 (Fla., Jan., 1942). The supreme court of North Carolina, ruling upon substantially the same question, found no denial of due process, and distinguished Tumey v. Ohio. *Ex parte* Steele, 18 S.E. (2d) 132 (N.C., Jan., 1942).

Stanley, Attorney-General, v. Jones upheld the removal from office of a Louisiana district judge for "gross misconduct" not connected with the office. 2 So. (2d) 45 (La., April, 1941).

Provisions of the state constitution establishing the initiative and referendum were construed strictly by the Massachusetts court. In an advisory opinion, it was held that the legislature cannot authorize the slightest change in the text of a proposed law contained in an initiative petition, not even to the extent of adding a title to the proposal where the authors of the petition failed to provide one.[28]

The Illinois supreme court, on the other hand, showed more liberality in interpreting the section of the state constitution relating to direct legislation. Although of the opinion that the secretary of state erred in including on the ballot information to acquaint the voters with the meaning of a proposition to be voted upon, the court, nevertheless, held that his error "was on the side of giving the voters more information." Since the information had not been designed to mislead the voters, there was no ground for declaring the election void.[29]

High courts of Maine and Louisiana disagreed on the question whether the legislature may enact a law anticipating the adoption of a proposed constitutional amendment and contingent upon such action. An advisory opinion of the Maine court denied the legislature such power.[30] The Louisiana supreme court, on the other hand, declared, in support of a practice of some thirty years' standing, that the insertion of a clause in a proposed constitutional amendment for the purpose of ratifying then existing legislation results in giving retroactive effect to the legislation which at the time of its passage was unconstitutional.[31]

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[27] Bigelow v. Brumley *et al.*, 37 N.E. (2d) 584 (Ohio, Nov., 1941).

[28] Opinion of the Justices, 35 N.E. (2d) 676 (Mass., June, 1941). The decision of the secretary of state on the validity of a referendum petition may not be reviewed and set aside by the courts. Moses, Governor, v. Thorson, Secretary of State, 299 N.W. 305 (N.D., July, 1941).

[29] Knappenberger v. Hughes, Secretary of State, *et al.*, 35 N.E. (2d) 317 (Ill., June, 1941). For a decision denying county commissioners power to spend county funds in the interest of a proposed constitutional amendment, see State *ex rel.* Bell *et al.* v. Board of County Commissioners of Beadle County *et al.*, 300 N.W. 832 (S.D., Nov., 1941).

[30] *In re* Opinion of the Justices, 19 A (2d) 53 (Me., Feb., 1941).

[31] Peck v. City of New Orleans *et al.*, 5 So. (2d) 508 (La., Dec., 1941); Peck *et al.* v. Tugwell, Treasurer, *et al.*, 5 So. (2d) 524 (La., Dec., 1941).

Despite the declaration of the Rhode Island constitution that "the general assembly may also provide special regulations and manner of voting for those persons who are absent from the state in the actual military service of the United States" (Art. XXI, Sec. 1), the state supreme court held that the legislature was unable

Separation of Powers. The Kentucky supreme court declared that the state legislature may not prescribe mandatory rules of judicial procedure without encroaching upon the powers of the courts. While "in the ordinary run of cases" courts might follow rules adopted by the legislature in the interest of uniformity, nevertheless there are "emergency occasions where such provisions should not be literally followed." The legislature may cooperate with the courts in this regard, but must not dominate them.[32]

In a case testing a provision of the uniform criminal interstate rendition act, the supreme judicial court of Massachusetts adopted a less sweeping view of inherent power. As adopted by that state, the act had authorized the governor to surrender a fugitive, even though a criminal action was then pending against him for violation of a state law. The statute was sustained by the court against the contention that the surrender of a criminal under such circumstances amounted to an interference with the constitutional power of the judiciary.[33]

Notwithstanding a constitutional clause which provided that the compensation of a public officer should not be increased nor diminished during his term of office,[34] the Washington legislature in 1933 delegated power to the governor to change the salary of any state officer appointed by him or that of an employee under the control of such officer. In a suit brought by the chief state mine inspector, whose salary had been reduced under the act, the court held that "if the legislature is without power to increase or diminish the salary of a state officer during his term of office, it cannot delegate such power to the governor."[35]

Inter-Governmental Relations. On March 11, 1941, the Oklahoma constitution was amended by popular vote to adopt a rigid "pay as you go" policy and prohibit the incurring of indebtedness on the part of the state or its agencies. Opponents of the fifteen-million-dollar Grand River Dam project thereupon argued that since the court had held the dam authority —a public corporation—to be an agency of the state, the authority was prohibited from incurring further indebtedness necessary to complete the project. Supporters contended that withdrawal of authority previously

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"to confer upon the absent electors in the actual military service of the United States a greater franchise than that expressly conferred by the amendment (Art. XXI, Sec. 1.) upon all absent electors." Opinion of the Justices, 25 A (2d) 360 (R.I., March, 1942).

[32] Commonwealth *ex rel.* Attorney-General v. Furste 157 S.W. (2d) 59 (Ky., Dec., 1941). See also the prior ruling in the same case, 156 S.W. (2d) 198 (Ky., Nov., 1941).

[33] *In re* Harris, 34 N.E. (2d) 504 (Mass., May, 1941). See also County Court of Raleigh County v. Painter, Special Judge, *et al.*, 15 S.E. (2d) 396 (W.Va., June, 1941).

[34] Washington Const., Art. II, Sec. 25.

[35] State *ex rel.* Bergin v. Yelle, Auditor of State of Washington, 118 P. (2d) 807 (Wash., Nov., 1941).

granted to issue and sell bonds necessary to complete the project would impair the obligation of the contract between the Authority and the United States. This contention was upheld, the court citing cases as far back as Ohio Life Insurance Company v. De Bolt[36] to the effect that contracts could no more be impaired by a constitutional change than by an ordinary law. The amendment of March 11, 1941, was therefore held not to deprive the dam authority of power to complete the project already begun.[37]

II. RIGHTS OF INDIVIDUALS

Religion. The bearing of constitutional freedoms on the legislature's power to forbid trespass was considered by the Louisiana supreme court. In upholding the conviction of a Jehovah's Witnesses preacher who had refused to leave posted premises, the court declared that "guarantees of freedom of religious worship, and freedom of speech and of the press, do not sanction trespass in the name of freedom. . . . Personal liberty ends where the rights of others begin."[38] Similarly, the New York court of appeals sustained a village ordinance which prohibited the distribution of pamphlets upon private property without the consent of the owner, if the distribution was by non-residents. In this case, the ordinance was applied to two non-resident ministers who contended, among other things, that they had been denied religious freedom. The court held that the individual householder should decide whether or not tracts should be distributed, that the guarantee of religious liberty did not include the right to go freely onto the property of others.[39]

Could children who were unable to attend public school because of their refusal to salute the flag, and whose parents lacked means to send them to a private school, be judged delinquent and committed to an industrial school? The New Hampshire court left the matter of the children's education in doubt, but declared that "in view of the sacredness in which the state has always held freedom of religious conscience, it is impossible for us to attribute to the legislature an intent to authorize the breaking up of family life for no other reason than because some of its members have conscientious religious scruples not shared by the majority of the community."[40]

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[36] 16 How. 416, 429 (1853).

[37] Wickham v. Grand River Dam Authority, 118 P. (2d) 640 (Okla., Oct., 1941). Against claims of governmental immunity, the Pennsylvania supreme court permitted Philadelphia to collect its wage tax on the salaries of state employees resident in Philadelphia. Marson v. City of Philadelphia, 21 A (2d) 228 (Pa., June, 1941).

[38] State v. Martin *et al.*, 5 So. (2d) 377 (La., Dec., 1941).

[39] People v. Bohnke, 38 N.E. (2d) 478 (N.Y., Dec., 1941). Petition for *certiorari* denied, 62 S. Ct. 1034 (April, 1942). Where a Jehovah's Witnesses minister had peddled religious tracts in the town of Casa Grande without payment of the $25.00 quarterly license fee required of solicitors and peddlers, the Arizona court held that there likewise had been no denial of religious freedom. For only when the minister insisted upon commercializing his profession had he been obliged to comply with the law or pay the penalty. State v. Jobin, 118 P. (2d) 97 (Ariz., Oct., 1941). Affirmed by United States Supreme Court, June 8, 1942, in a five-to-four decision. See also Commonwealth v. Pascone (two cases), 33 N.E. (2d) 522 (Mass., April, 1941).

However, the Arizona supreme court sustained the constitutionality of a statute which made parents guilty of contributing to the delinquency of minors if they encouraged children not to salute the flag. The court declared that "any attempt to direct or compel a child to refuse to follow the national customs . . . does contribute to the delinquency of the child, and may properly be made a crime by the state without violating the First Amendment."[41]

Freedom of Speech and Press. A member of the Jehovah's Witnesses sect, who had been taken into custody away from a threatening crowd, called a police officer "a damned racketeer . . . a damned Fascist," and characterized the government of Rochester, New Hampshire, as "Fascist or agents of Fascists." Subsequently he was convicted of violating a statute which made it a crime to speak to a person on a public street in an offensive manner with intent of deriding, offending, or annoying him. This conviction was upheld by the New Hampshire supreme court against the contention that the statute abridged legitimate freedom of speech. The court ruled that the statute in no way interfered with the right of full and free discussion of religious, social, and governmental questions.[42]

An important decision of the Missouri court clarified the relations between the individual's right to privacy and the constitutional guarantees of freedom of speech and freedom of the press. The decision upheld damages against a news magazine for publishing an unauthorized and illustrated story concerning a rare ailment that had caused the plaintiff to be described as a "starving glutton." The court recognized a legitimate public interest in such cases, but declined to construe the freedom of the press as sanctioning publication of the plaintiff's name and photograph.[43]

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[40] State v. Lefebvre, 20 A (2d) 185 (N.H., May, 1941). A Mississippi statute which provided for distribution of free textbooks to pupils in all qualified elementary sectarian and private schools as well as public schools was sustained in Chance *et al.* v. Mississippi State Textbook Rating and Purchasing Board *et al.*, 200 So. (2d) 706 (Miss., Feb., 1941). The action of a village zoning commission in refusing a special permit to erect a church in a residential district was held arbitrary and unreasonable and a violation of the rights of the church under the state and federal constitutions. State *ex rel.* Synod of Ohio of United Lutheran Church in America v. Joseph *et al.*, 39 N.E. (2d) 515 (Ohio, Jan., 1942).

[41] State v. Davis *et ux.*, 120 P (2d) 808 (Ariz., Jan., 1942).

[42] State v. Chaplinsky, 18 A. (2d) 754 (N.H., Mar., 1941). This decision was sustained by the U.S. Supreme Court, 62 S. Ct. 766 (Mar., 1942). A statute that made it a crime to incite or advocate hatred, abuse, etc., against any group of persons by reason of their race, color, or religion was held void in a case which involved members of the German-American Bund. The statute was condemned as violating the guarantee of freedom of speech, and also because it was vague, uncertain, and indefinite. State v. Klapprott, 22 A (2d) 877 (N.J., Dec., 1941). See also City of Gaffney v. Putnam, 15 S.E. (2d) 130 (S.C., June, 1941).

Freedom of Speech: Picketing. The Texas court of civil appeals upheld an injunction which restrained the Carpenters Union from picketing a unionized restaurant whose proprietor had entered into a contract for the construction of an office-building with non-union labor. The union's contention that the injunction invalidly curtailed its right to speak and publish, and its further argument that the Meadowmoor[44] and Swing[45] cases supported this position were overruled by the state court.[46] The view was affirmed by the United States Supreme Court in a five-to-four decision. The majority held that the state might restrict picketing to the area of an industry within which a labor dispute arose.[47]

The Pennsylvania court likewise narrowed the scope of Thornhill v. Alabama.[48] It held that members of a labor union having a controversy with an employer might picket the retail outlets through which the employer's product was sold, and added that "to the extent to which they merely publicize, by true and fair statements, the facts of a labor dispute, they are within the protection given to freedom of speech." Yet this was certainly "a far cry from . . . advertising that the retailer himself is 'unfair' to labor, or urging the public not to purchase other merchandise from him, or attempting to quarantine him in the general pursuit of his business."[49]

An interesting variant of the right of peaceful picketing appeared in a unanimous decision of the California supreme court. A Los Angeles city ordinance made it unlawful for any person to use the street or sidewalk in front of his place of business or any entrance, doorway, or hallway immediately abutting upon any public way, "for the purpose of importuning or soliciting passers-by, by word of mouth or gesture, or by any sound-making device, to enter such place of business for the purpose of examining or purchasing any goods, wares, or merchandise. . . . " Plaintiffs, who operated a chain of jewelry stores and who relied heavily on the practice of "pulling in" window shoppers and passers-by, contended that the ordinance worked irreparable injury to their business, that it bore no relation to health, safety, or general welfare; hence it was an unwarranted and unreasonable interference with a lawful business and violative of both the Fourteenth Amendment and corresponding provisions of the state constitution. The court not only upheld these contentions but approved the ingenious argument that "if it is the constitutional right of an employee to stand on the street in front of his employer's place of business and solicit or importune the public not to enter and trade with his employer, is it not also his constitutional right, as well as that of his employer, when conditions of employment are satisfactory to the employee, to stand on the premises of his employer's business and importune or solicit patrons to enter and trade, thus promoting trade and commerce in aid of his employment and in aid of the general welfare?" The court declared that "the right to conduct a private business free from unreasonable regulation is just as sacred as the right of members of a labor organization to conduct a campaign for better labor conditions and should receive equal protection under the constitutional guarantees. To permit peaceful solicitation by a picket on the sidewalk and prohibit peaceful solicitation from a doorway abutting on the sidewalk would be a gross discrimination."[50]

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[43] Barber v. *Time*, Inc., 159 S.W. (2d) 291 (Mo., Feb., 1942).

[44] 312 U.S. 287 (Feb., 1941).

[45] 312 U.S. 321 (Feb., 1941).

[46] Carpenters and Joiners Union of America, Local No. 213, *et al.* v. Ritter's Cafe *et al.*, 149 S.W. (2d) 694 (Texas, Apr., 1941). See also Borden Co. *et al.* v. Local No. 133 of International Brotherhood of Teamsters, etc., 152 S.W. (2d) 828 (Texas, May, 1941).

[47] 62 S. Ct. 807 (Mar., 1942).

[48] 310 U.S. 88 (Apr., 1940).

[49] Alliance Auto Service, Inc., v. Cohen, 19 A. (2d) 152 (Pa., Mar., 1941).

Right of the Accused: Privilege Against Self-Incrimination. A labor leader who conducted a strike at the Maytag plant in Newton, Iowa, was convicted of the crime of criminal syndicalism. The conviction was based in part on evidence taken before a military commission while the city of Newton was under martial rule. In upholding his contention that his statements made at the hearing were not voluntary and that their use breached his right against self-incrimination, the supreme court ruled that "the record . . . shows upon its face . . . that the testimony was not voluntary," for the hearing before the commission was secret, an armed guard was maintained at all times, the accused had no counsel or legal adviser, and "it does not appear that he was advised of his rights respecting the use against him of anything he might say."[51]

In a disciplinary proceeding before the Illinois supreme court, the commissioners of the Chicago Bar Association urged that a municipal judge's position as lawyer and judge so obligated him to aid a criminal investigation that assertion of his privilege against self-incrimination rendered him liable to disbarment. While conceding that the privilege must be exercised in good faith, the Illinois supreme court failed to agree with counsel that

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[50] McKay Jewelers, Inc., *et al.* v. Bowron *et al.*, 122 P. (2d) 543 (Cal., Feb., 1942).

[51] State v. Sentner, 298 N.W. 813 (Iowa, June, 1941). The case of State v. Conway *et al.* is of unusual interest, not so much for the novelty of the views expressed with regard to waiving the privilege against self-incrimination as for the thorough analysis of the conflicting views in American jurisdictions. 154 S.W. (2d) 128 (Mo., Sept., 1941). The North Carolina court declined to construe the privilege against self-incrimination as preventing the introduction in evidence of reports of a chemical analysis of blood and urine taken from the accused without compulsion. State v. Cash, 15 S.E. (2d) 277 (N.C., June, 1941). See also this REVIEW, Aug., 1941, p. 649.

"the duty resting upon a lawyer to assist in the investigation of crime . . . outweighs . . . his moral as well as his legal right to claim the constitutional privilege." "Judges," the court declared, "are not expected to be ignorant of . . . things . . . other men . . . well know," and without passing directly on the matter, the court intimated its belief that fears of political persecution might, as had been contended, conscientiously have determined the refusal to testify.[52]

Rights of the Accused: Costs on Appeal; the Record. The Indiana supreme court held that under the state constitution[53] the court "is required to furnish a pauper defendant with a record which may be used to support an assignment of error on appeal, and furnish him with counsel to perfect an appeal, all at the expense of the county." However, after a conviction, and after the judgment has become final, the criminal prosecution is terminated and the constitutional provision is no longer operative. While a defendant is being prosecuted "the burden is upon the state to prove that he is guilty of the charge, and the constitution requires that he be afforded ample means with which to defend himself. After the judgment becomes final, the burden is upon the judgment defendant to establish facts which justify setting the judgment aside."[54]

Rights of the Accused: Jury. Hugh Pierre, a Negro convicted of murder, brought his case to the Louisiana supreme court for the second time. His conviction had been reversed by the United States Supreme Court[55] on the ground of systematic exclusion of Negroes from jury service in a parish where Negroes constituted half of the qualified population. The Louisiana court affirmed the conviction, this time on a showing that two Negroes had been on the grand jury which returned the new indictment and one Negro on the trial jury which convicted him. This the court found to be ample evidence that Negroes were no longer systematically excluded. The fact that Negroes' service on juries was not in proportion to racial division in the community was held to be of no importance.[56]

Does the restriction of jury service to poll-tax payers result in an unconstitutional discrimination against members of the Negro race, only a small proportion of whom are known to pay the tax? The issue promises to become one of major importance in the near future. It was raised in a Virginia murder case that had resulted in the defendant's conviction. The court was able to avoid passing directly on the issue, however, by indicating that the accused had failed to prove either that members of the grand

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[52] *In re* Holland, 36 N.E. (2d) 543 (Ill., Sept., 1941).

[53] Art. 1, Sec. 13.

[54] State *ex rel.* Cutsinger v. Spencer, Judge, 37 N.E. (2d) 88 (Ind., Nov., 1941).

[55] 306 U.S. 354 (1939).

[56] State v. Pierre, 3 So. (2d) 895 (La., July, 1941). *Certiorari* denied by U.S. Supreme Court, 62 S. Ct. 186.

and petit juries were selected from poll-tax payers or that the accused had not himself paid the tax.[57]

Slavery. A forty-year-old Georgia statute declared that any person who received an advance on a contract for personal services and failed either to perform according to the contract or to return the advance should be presumed to have entered into the contract with intent to defraud, and upon conviction would become a common cheat punishable as the act provided. It is perhaps less surprising that so anachronistic a statute has remained on the books than that the supreme court of Georgia sustained its validity in the face of the decision in Bailey v. Alabama.[58] It is gratifying to note that the United States Supreme Court, speaking through Justice Byrnes, held that the Thirteenth Amendment meant what it said, and reversed the verdict.[59]

Sterilization of Habitual Criminals. The supreme courts of both Oklahoma and Washington declared that a state may order the sexual sterilization of habitual criminals, although the Washington statute was invalidated for failure to provide adequate notice.[60] The Oklahoma law defined habitual criminals as persons twice convicted of felonies involving moral turpitude, whether in Oklahoma or elsewhere, and who thereafter had been convicted or imprisoned for a similar felony in Oklahoma. In the case of a defendant who had been convicted once for stealing chickens and twice for robbery, a bare majority of the Oklahoma supreme court held that the statute did not violate the *ex post facto* or cruel-and-unusual-punishment clauses of the state constitution. The majority reasoned that the statute was not penal, but was eugenic. Neither was due process violated, for the legislature was assumed to be acting on the view that habitual criminals are more likely than not to beget children of similar tendencies, and this view was regarded as reasonable. The opinion is thus at odds with established biological opinion which holds that while criminality undoubtedly runs in families, criminality as such is not inheritable.[61] Thus the assumption of reasonableness falls, and the act has no reasonable relation to its purpose.[62]

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[57] Waller v. Commonwealth, 16 S.E. (2d) 808 (Va., Oct., 1941). A grand jury may not usurp the functions of a trial jury. Thus a Georgia grand jury that summoned an accused person before it and questioned him concerning the charge against him while considering a bill of indictment was held to be acting "against the public policy of this state" and in violation of the constitution. Jenkins v. State, 14 S.E. (2d) 594 (Ga., April, 1941). Trial by jury means trial by a jury in the presence of a judge who supplies the jury with ample guidance. He must not limit his comment to an abstract discussion of the law. Smith v. Kappas *et al.*, 15 S.E. (2d) 375 (N. C., June, 1941).

[58] 219 U.S. 219 (1911).

[59] Taylor v. State, 13 S.E. (2d) 647 (Ga., Mar., 1941), reversed in Taylor v. Ga. 62 S. Ct. 415, Jan. 12, 1942. The attitude of the Kansas supreme court expressed in Graham v. Board of Education of Topeka stands in sharp contrast to that of the Georgia court in the Taylor case. A twelve-year-old Topeka Negro boy was promoted from the sixth grade of the Buchanan elementary school and applied to Boswell Junior High School for enrollment in the seventh grade. He was denied the right to enroll because of his race and color, and thereupon instituted mandamus proceedings, alleging that refusal to grant him the educational advantages of the Boswell school was discriminatory and violated his rights under the Fourteenth Amendment. The Kansas supreme court upheld this contention. It declared that segregation of races is permissible provided equal facilities are maintained, but that maintenance of a six-six plan for white children and an eight-four plan for Negroes, with many facilities and advantages afforded students at the Boswell school that were lacking at the Buchanan school, necessarily constituted discrimination. 114 P. (2d) 313 (Kan., June, 1941).

[60] *In re* Hendrickson, 123 P. (2d) 322 (Wash., Mar., 1942).

III. GOVERNMENT AND BUSINESS

Unemployment Insurance and Housing. A marked decline is apparent in the number and intensity of attacks on social legislation. Most widely challenged during the year were the unemployment compensation acts. Without exception, courts sustained such statutes against almost every conceivable argument, though with occasional dissent.[63]

Except in the South, where tax exemptions were involved, even public housing seemed to lose its controversial character.[64] Findings of both the state legislature and of Congress that rural housing was for a public purpose were deemed sufficient in South Carolina.[65] Florida's court reaffirmed its earlier holding that properties of municipal housing authorities were used exclusively for a public purpose, and hence were tax exempt.[66]

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[61] *Harvard Law Rev.*, Vol. 55, pp. 285–6 (Dec., 1941).

[62] Skinner v. State *ex rel.* Williamson, Attorney-General, 115 P. (2d) 123 (Okla., July, 1941). Reversed by United States Supreme Court, 6 S. Ct. 1110 (June 1, 1941). See Elmo R. Smith, "Validity of Statute Providing for Sterilization of Habitual Criminals," *Cal. Law Rev.*, Vol. 30, pp. 189–193 (Jan., 1942).

[63] Unemployment Compensation Commission v. J. M. Willis Barber and Beauty Shop *et al.*, 15 S.E. (2d) 4 (N.C., May, 1941); Picklesimer v. Pratt *et al.*, 17 S.E. (2d) 524 (S.C., Nov., 1941); Commonwealth v. Perkins, 21 A (2d) 45 (Pa., Sept., 1941); New Haven Metal & Heating Supply Co. v. Danaher, Administrator, etc., 21 A (2d) 383 (Conn., July, 1941); Friedman v. American Surety Co. of New York (Supreme Court) 151 S.W. (2d) 570 (Texas, May, 1941). A divided court in the Friedman case distinguished the Texas decision in McCombs *et al.* v. Dallas County *et al.* (Court of Civil Appeals), 136 S.W. (2d) 975 (Texas, Feb., 1940), examined in this REVIEW, Aug., 1940, p. 718.

[64] See this REVIEW, Aug., 1940, pp. 715–716, and Aug., 1941, pp. 697–698, for previous summaries.

[65] Benjamin v. Housing Authority of Darlington County *et al.*, 15 S.E. (2d) 737 (S.C., July, 1941).

[66] State *ex rel.* Grubstein v. Cambell, Tax Assessor, *et al.*, 1 So. (2d) 483 (Fla., Apr., 1941); Smith, County Tax Assessor, v. Housing Authority of Daytona Beach, 3 So. (2d) 880 (Fla., Sept., 1941).

Regulation of Trades and Professions. State courts continue to favor integrated control of trades and professions. A Washington statute which denied any person the right to conduct a dental office in his name unless personally present in the office a majority of the time, but which did not interfere with dental chains already established, was upheld by the state supreme court.[67] An amendment to the Illinois dental practice law which closed a loophole in the law against professional advertising was likewise approved.[68] Refusal of New York authorities to grant one of the world's leading neurologists a license to practice medicine under a special provision in the law which authorized licensing of an applicant who had "reached a position of conceded eminence and authority in his profession" was upheld by a divided court of appeals. The majority felt obliged to let licensing authorities make their own interpretation of the quoted phrase.[69]

On the other hand, efforts of occupational groups to "professionalize" their callings have met firmer opposition, especially where these efforts have been directed at eliminating marginal competitors. A ruling of the Board of Examiners in Embalming which required funeral directors to carry a certain number of caskets in stock was sharply condemned by the Nebraska court. In the judgment of the court, the requirement bore no substantial relation to its avowed objects, and was arbitrary and discriminatory.[70] A majority of the Arizona high court felt similarly about a statute which licensed and regulated the practice of commercial photography. The act in question did not "pretend to regulate the practice of photography in the interests of the . . . public, but rather in the interests of the professional photographers who are fortunate enough to obtain a license."[71]

Zoning. Courts have been cautious in sanctioning the exercise of the police power upon purely aesthetic grounds. Although such considerations have figured in support of zoning, set-back, city planning, and anti-billboard legislation, the public peace, health, and safety generally have supported the holdings. Thus two recent Florida decisions are of more than ordinary interest. In the earlier case, the supreme court expressly assigned aesthetic considerations as the chief factor in support of a zoning ordinance of the city of Miami Beach. The city's character as a vacation center, and the desirability of enforcing limits on the use of property to add to its attractiveness, were held to bring the ordinance within the scope of the police power.[72] Later, the court sustained statutes which prohibited the erection and maintenance of advertising signs within a distance of fifteen feet from the outside boundary of public highways. In this instance, however,[73] the majority rested its decisions on "the safety and comfort" of the traveling public. Two dissenting justices, convinced that such legislation could properly be sustained upon aesthetic grounds alone, argued that a leading case holding to the contrary[74] should have been expressly overruled.

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[67] Campbell v. State, 122 P. (2d) 458 (Wash., Feb., 1942).

[68] Lasdon *et al.* v. Hallihan, Director of Registration and Education, *et al.*, 36 N.E. (2d) 227 (Ill., Sept., 1941).

[69] Marburg v. Cole *et al.*, 36 N.E. (2d) 113 (N.Y., July, 1941).

[70] Golden v. Bartholomew *et al.*, 299 N.W. 356 (Neb., July, 1941).

[71] Buehman *et al.* v. Bechtel, 114 P. (2d) 227 (Ariz., June, 1941). An ordinance of Scranton, Pennsylvania, which had set barber shop hours at 8:30 to 6:30, with an hour longer on Saturdays and before holidays, was invalidated by the supreme court. Saccone *et al.* v. City of Scranton *et al.*, 20 A (2d) 236 (Pa., May, 1941).

Carriers: Fence Law. Railroads burdened by anachronistic fence laws found relief in a far-reaching decision of the Florida court. A statute which granted double damages and attorney's fees without proof of negligence for livestock killed on an unfenced right of way was invalidated. Counsel for the carrier stressed the great changes that had occurred since enactment of such legislation a half-century ago. Formerly, practically all livestock roamed at large, today barely thirty per cent does so. Notwithstanding the admittedly greater hazards from such accidents, motor carriers are subject to neither the fencing requirements nor the double damages provision. Furthermore, they escape the burden of constructing and maintaining rights of way. On the basis of this showing, and after citing the well settled rule that a statute may be valid when enacted but may become invalid as a result of changed conditions,[75] the court struck down the state's fence law of 1889.[76]

Public Ownership. Ownership of an easement adequately protected the city of Manchester's water supply, but protection could be less expensively secured by outright ownership of the land. In a decision which involved no novel principles of law, but which probably will be cited wherever public ownership programs can be shown to pay their way, the New Hampshire court squarely held taking of property for purposes of economy to be an authorized public purpose. "Public economy, including any proper measures lessening the burden of taxation, is a matter of the general welfare. . . . Riddance of private ownership may be as great a public need as one requiring expenditure."[77]

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[72] City of Miami Beach v. Ocean & Inland Co., 3 So. (2d) 364 (Fla., July, 1941).

[73] Hav-a-Tampa Cigar Co. v. Johnson, Chairman of State Road Dept., 5 So. (2d) 433 (Fla., Jan., 1942); John H. Swisher & Son, Inc. *et al.* v. Johnson, Chairman of State Road Dept., 5 So. (2d) 441 (Fla., Jan., 1942).

[74] Anderson v. Schockleford, 76 So. 343, 345.

[75] Nashville, C., and St. L. Ry. v. Walters, 294 U.S. 405, and cases there cited.

[76] Atlantic Coast Line Railroad Co. v. Ivey, 5 So. (2d) 244 (Fla., Jan., 1942).

[77] Leary v. City of Manchester, 21 A. (2d) 156 (N. H., June, 1941). A California court invalidated a statute which made public utility companies liable for attorney's fees and other expenses growing out of unsuccessful attempts to enjoin municipalities from acquiring their own public works. The court saw no reasonable basis for

Taxation: General. In 1938, an Illinois county lowered the assessed value of real estate by twenty per cent. It then applied an equalization rate of forty per cent to both real and personal property and levied a tax. The state supreme court saw no merit in a telephone company's claim that this procedure violated a constitutional clause which required payment of taxes in proportion to value.[78] Its holding prompted critics of less liberal decisions to hope that the way might finally be cleared to permit a graduated income tax and a thorough overhauling of the state's archaic system of property taxation.[79]

An ambitious program of southern rice interests came to naught when the supreme court of Arkansas invalidated the Rice Development Commission Act of 1941. This measure, which was linked to similar laws in Louisiana and Texas, authorized the appointment of a commission of growers and millers, and provided for a two-cents-per-hundred-weight tax on rice milled within the state. Resulting revenues were to be used for promotional and advertising purposes. The majority was unimpressed with decisions upholding similar statutes in Florida, Idaho, and Michigan.[80] It regarded the levy as a property tax rather than an excise, and one which was laid on a common right for a private purpose. Exercise of the taxing power in behalf of fewer than one per cent of the state's farmers could not be justified by reference to the common welfare. Two dissenting judges expressed regret that the decision invalidated the entire tri-state program. They argued that the tax was really one on the privilege of putting milled rice in the channels of commerce.[81]

License Tax. An ordinance of the city of Richmond enumerated 155 businesses and fixed a license tax for each. A "catch-all" section then re-

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classifying suits by public utilities opposed to public ownership in the same category with suits by insurance companies and railroads contesting insurance claims, fence, and tax legislation. Sacramento Municipal Utility Dist. v. Pacific Gas and Electric Co. (District Court of Appeal) 115 P. (2d) 582 (Cal., July, 1941).

[78] People v. Southwestern Bell Telephone Co., 36 N.E. (2d) 362 (Ill., Sept., 1941).

[79] See note, *Ill. Law Rev.*, Vol. 36, pp. 796–98 (Mar., 1942). Illinois farm organizations tried to show that farm lands had been assessed at thirty-five per cent of fair cash value while city property had been assessed at twenty-five per cent. Though it was forcibly argued that this violated the state uniformity clause, as well as federal due process and equal protection, the supreme court declined to intervene: plaintiffs had failed to show either fraudulent valuation or that their own lands had been discriminated against. Tuttle *et al.* v. Bell, County Collector, 37 N.E. (2d) 180 (Ill., Nov., 1941). *Certiorari* denied by United States Supreme Court, Mar. 2, 1942, 62 S.C. 801.

[80] Floyd Fruit Co. v. Florida Citrus Commission, 175 So. 248, 112 A.L.R. (1937); State *ex rel.* Graham v. Enking 82 P. (2d) 649 (1938); and Miller v. State Apple Commission, 296 N.W. 245 (1941). See this REVIEW, Aug., 1941, p. 699.

[81] Stuttgart Rice Mill Co. v. Crandall, 157 S.W. (2d) 205 (Ark., Jan., 1942).

quired a flat fee of fifty dollars from "any person, firm, association, partnership, or corporation engaged in any business, occupation, or profession . . . for which no specific license tax is levied." The Virginia court declared that "if this unceremonious lumping of the newsboy and the steel magnate, the music teacher and the dental laboratory, could be called a classification at all," then "it is certainly whimsical, irrational, capricious, and grossly unjust." Not only were state and federal due process and equal protection clauses violated, but determination of the tax was held to be improperly delegated to the commissioner of revenue.[82]

Forty-two years after enactment, and after issuance of 44,000 permits and collection of $225,000 in fees, the Maryland court of appeals held void a Baltimore ordinance which required a five-dollar to one-hundred-dollar nightly license fee for the conduct of public dances. The mere fact that uncontrolled discretion had been given to the secretary of the board of police commissioners to determine the amount of the fee was deemed decisive. Evidence which tended to show that the minimum fee had been universally charged of social dances and ball rooms, including that of the plaintiff, whereas the maximum had been required only of walkathons, dime dance halls, and other places which required policing and regulation, failed to impress the judges.[83]

The Ohio supreme court held void an ingeniously drafted Dayton ordinance the obvious purpose of which was to reduce or eliminate mail order competition in the supply of fixtures to be installed by local plumbers. Provisions that required vendors to report weekly on sales and that forbade the installation of plumbing fixtures not carrying a Dayton license sticker were held to have too remote a relation to public health to be sustained under the police power.[84]

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[82] Williams v. City of Richmond, 14 S.E. (2d) 287, 134 A.L.R. 833 (Va., April, 1941).

[83] Maryland Theatrical Corporation v. Brennan (Court of Appeals) 24 A (2d) 911 (Md., Mar., 1942). A city ordinance which imposed a five-dollar-a-year license tax on cigarette-vending machines, but which provided that the fee should apply only to operators of four machines or more, was invalidated by the Kansas supreme court as an arbitrary classification. Two judges dissented. Matheny v. City of Hutchinson, 121 P. (2d) 227 (Kan., Jan., 1942). A licensing statute which required restaurants and kitchens to be separated from other businesses in the same place, and which applied only to restaurants subsequently established, was held violative of state and federal due process and equal protection clauses. State *ex rel.* F. W. Woolworth Co. v. State Board of Health *et al.*, 298 N.W. 183 (Wis., May, 1941).

[84] Direct Plumbing Supply Co. *et al.* v. City of Dayton *et al.*, 38 N.E. (2d) 70 (Ohio, Oct., 1941). State courts continue to look with less favor on so-called "Green River" ordinances which make uninvited house-to-house canvassing a nuisance *per se*. On finding that recent decisions in Maryland, Virginia, and New Jersey were all adverse, the Iowa court held that such legislation imposed unreasonable and unwarranted restraint upon lawful business. City of Osceola v. Blair, 2 N.W. (2d) 83

Chain Store Taxation. The Texas court of civil appeals adhered to earlier holdings and sustained the state's chain-store tax law, first, as the law had been applied to subsidiary corporations,[85] and second, as it involved an oil company whose counsel contended that a tax of $800,000 on a net profit of one million and an investment of six million in filling stations was confiscatory within the meaning of the state due process clause.[86]

Use Tax. The Michigan supreme court sustained the state's use tax,[87] but refused to permit the act to be applied in a manner which would have made an Illinois tailoring corporation the collector of the tax on men's suits sold and delivered in Illinois for carriage to owners in Michigan.[88] Three judges contended that the mere fact that the company's orders were accepted and title passed in Illinois, and that the goods were shipped into Michigan in interstate commerce, did not exempt the company from the use tax after the property came to rest in Michigan. According to their view, the tax was not upon the operations of interstate commerce, but upon the privilege of use after commerce was at an end. The purpose and necessity of the tax as an adjunct to the sales tax should have been determinative.[89]

Tax Exemption. To encourage the establishment of new industries in the state, Florida in 1930 amended its constitution to exempt from taxation for a period of fifteen years "all plants established on or after July 1, 1929, engaged . . . in the manufacture of steel vessels, . . . tires, fabrics and textiles, wood pulp, paper, . . . automobiles, . . . aircraft . . . " with the exception that no exemption should run beyond 1948. Four years later, a similar exemption was granted to all motion picture studios established

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(Ia., Feb., 1942). To the same effect, see City of Mt. Sterling *et al.* v. Donaldson Baking Co., 155 S.W. (2d) 237 (Ky., Oct., 1941), and *Ex parte* Faulkner, 158 S.W. (2d) 525 (Texas, Feb., 1942). An ordinance which imposed a hundred-dollar license fee on merchants having no fixed place of business in the town was sustained by the California supreme court despite the fact that a local merchant would have had to pay but twenty dollars. Hansen v. Town of Antioch *et al.* 114 P. (2d) 329 (Cal., July, 1941). Compare Southern Linen Supply Co. *et al.* v. City of Hazard *et al.*, in which the Kentucky supreme court disapproved collection of an annual license fee of four hundred dollars from out-of-town laundries and dry cleaners, a charge eight times that required of local business men. 151 S.W. (2d) 758 (Ky., May, 1941).

[85] Safeway Stores, Inc., of Texas v. Sheppard, 158 S.W. (2d) 319 (Tex., Jan., 1942), writ of error denied, Mar. 11, 1942.

[86] Humble Oil & Refining Co. v. State, 158 S.W. (2d) 336 (Tex., Feb., 1942).

[87] Banner Laundering Co. v. Gundry *et al.*, 298 N.W. 73 (Mich., May, 1941).

[88] The majority of the court here distinguished the recent holding of the United States Supreme Court in Nelson v. Sears, Roebuck & Co., 61 S. Ct. 583 (1941), on the ground that the mail order house in that case had been liable for the sales tax because of its intrastate retail store business, whereas the Illinois tailoring firm previously had been held not to be liable for the Michigan sales tax.

[89] J. B. Simpson, Inc., v. Gundry *et al.*, 298 N.W. 81 (Mich., May, 1941).

in the state on or after July 1, 1933. Corporations appealing for judicial enforcement of these provisions have as a rule been heard sympathetically.[90]

A recent case involved a motion picture studio which moved from New York to Florida in 1938. The court held that earlier decisions with reference to the state's $5,000 homestead exemption were controlling: "organic exemptions from taxation qualify existing taxing power when no dominant federal law is violated." Since in the present case there was no claim that the exemption violated the federal contract clause, and since it was clear from the pleadings that new taxable property more than offset the exemptions and thereby permitted the taxing district to meet its obligations, the exemption was held to be enforceable. However, the court was careful to restrict its decision by saying that "every case must be determined on its own essential facts . . . and it must be shown that the dominant law is not violated by the claimed exemption."[91]

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[90] City of Tampa v. Tampa Shipbuilding & Engineering Co., 186 So. 411 (Fla., Jan., 1939); Burnett v. American Welding & Tank Co., 197 So. 458 (Fla., July, 1940); and National Container Corp. v. State, 189 So. 4 (Fla., May, 1939), 122 A.L.R. 1000.

[91] Fleischer Studios, Inc., v. Paxson *et al.*, 2 So. (2d) 293 (Fla., May, 1941).

Willow Run Produces Bombers and Intergovernmental Problems. Wings over Europe and the Far East are being spread from what was until last year mere Midwestern field and stream—Willow Run, now the site of the world's largest and most revolutionary bomber plant. Air supremacy for the United Nations may rest upon Henry Ford's adaptation of assembly-line methods from autos to airplanes. B-24 bombers now being flown from the hangars at the bomber plant are casting their shadows over the countryside round about. But months ago, the first shadows of Willow Run lengthened over the neighboring cities and villages. Rural residents are finding themselves in the midst of a metropolitan maëlstrom. Orchards, vineyards, wood-lots, and truck gardens are giving way to highways, trailer camps, and federal housing facilities. Population growth and changing land-use are staring the local urban and rural governments in the face. Immediate need for roads, public health service, zoning, and housing are problems which cut across the paths of national, state, and local authorities.

When Henry Ford and the Defense Plant Corporation agreed in April, 1941, upon Willow Run, a rural crossroads in Ypsilanti township of Washtenaw county, Michigan, as the site for their thousand-acre war industry, the sugar bush and cornfield gave way to the low-lying brick structure built to employ up to 60,000 workers. The administrative problems registered on the political seismographs of every governmental unit within a twenty-five mile radius. Ypsilanti township, with a property valuation of something over $3,000,000 in 1941, had to assess for the local tax-rolls buildings and equipment costing some $57,000,000.

Officials responsible for the immediate area in which the bomber plant is located consist of a supervisor (who also serves as assessor), a clerk, a commissioner of highways, a treasurer, justices of the peace, and constables—all part-time officials elected by the voters. No single political division, however,—township, county, or even the state—found itself in a position to assume full responsibility for this industrial colossus.

The President of the United States took cognizance of the difficulties in a press conference by stating that the area affected included a half-dozen cities, portions of several counties, and state and federal jurisdictions. He did not include a score of townships and numerous school districts. Coöperation among these units was made more difficult because of the lack in Michigan counties and townships of integrated executives who could plan, make the contacts, and carry out agreements with dispatch. In addition, the city of Ypsilanti, about four miles west of the plant, and Ann Arbor, about ten miles northwest, had been moving along in accustomed procedures for many years with weak-mayor and council governments.

Until December 7, 1941, the federal and state governments considered the primary need to be the building of highways giving ready and multi-lane access to the plant for former automotive workers living in Detroit, Dearborn, Wayne, and other communities of the metropolitan region. One out of every five factory workers in Detroit, according to the planning division of the state highway department, has been accustomed to live more than ten miles from his place of employment. Until recently, he had not been as concerned about the distance from home to factory as with the time necessary to make the trip in his own automobile. Bomber-plant planners went on the theory, before 1942, that the worker switched from auto-making to plane production would not seek a change in residence if he could reach work in less than an hour. By construction of sufficient highway facilities in the right places, it was hoped to avoid creation of housing and community services such as health, safety, recreation, and utilities in the semi-rural surroundings of the new plant.

Being already familiar, federal, state, and county coöperation in the matter of roads facilitated immediate construction of the proposed highways. In Michigan, some years ago, the county superseded the township as the local unit responsible for roads in unincorporated areas, leaving the township highway commissioner without a job. No sooner was the bomber plant under construction than the state highway department officials met with the Wayne and Washtenaw county road commissioners to prepare and submit a plan for approval of the federal Public Roads Administration and the War Department. Approximately $4,000,000 has since been spent for roads in the immediate vicinity, 75 per cent being financed by the federal government and 25 per cent by the state and the two counties most affected. After consultation, federal authorities agreed to pay for all purely defense highways establishing access to the bomber plant.

Actual construction and supervision of the highways was not always allocated in strict accordance with geographic jurisdiction of the governmental authority. The Wayne county road commission built roads in Washtenaw county, for example, where speed and efficiency would be increased if one agency supervised the extension of a particular access road. The state did not confine its activities entirely to state highways, but also executed a series of roads directly into the plant parking lots designed to accommodate 30,000 cars. As a result of intergovernmental planning and operations, roads immediately encircling the plant were completed before production was under way.

In November, 1940, by local referendum as prescribed by state law, the Huron-Clinton Parkway Authority was authorized to develop recreational facilities for the 3,000,000 residents in five counties in southeastern Michigan. This *ad hoc* five-county metropolitan authority was fortuitously in process of organization when Willow Run loomed on the horizon.

Full development of the projected metropolitan parkway must await the end of the war, but an immediate program has been planned for those thousands who are jamming the Huron-Clinton area to work in war industries. This will include a park to be located near the Willow Run plant. The Huron-Clinton Parkway Authority has played a hand in intergovernmental developments. It joined with the state highway department to hire the services of Robert Moses, New York commissioner of parks, as a special consultant for a proposed Detroit-Willow Run, limited-access express-way. Starting in Detroit, this through way will run approximately twenty miles through the heart of the Ford River Rouge Plant in Dearborn to Willow Run without a single traffic light or crossroad. This project, estimated to cost $11,800,000, has been certified by the War Department for immediate construction. The federal government will provide 75 per cent of the $9,500,000 cost of the construction; the Michigan highway department will provide the balance and an additional $2,300,000 for right of way.

Contrary to anticipations of governmental and plant officials, people began to drift into the region directly adjacent to the bomber plant. Protection of public health became one of the main concerns of the local governments involved, since they were not at the time all geared for the task. Washtenaw county as the only local unit adequately prepared demonstrated by its newly established county health department the advantages of federal, state, and local coöperation in the field of health administration.

In Wayne county, the helplessness of the various township health officers meant that health problems were to go by default if the state health department was unable to assume the burden. Late in 1941, a state law went into effect for the regulation and control of trailer camps, and enforcement was vested in the state health department working through county health units where they existed. Minimum standards for water supply, sewage disposal, laundry facilities, garbage disposal, and food handling in camps where food is sold from public kitchens, were carried out most effectively in Washtenaw county. By February, 1942, two camps had been forced to close and temporary permits had been issued to ten others pending improvements to meet the requirements of the law.

Early in the summer of 1941, the Washtenaw county health department foresaw the growth of shack towns and their attendant health menace. It framed a sanitation ordinance in coöperation with the state health department and public health experts at the University of Michigan, the county prosecutor, and the state attorney-general's office making certain that the provisions of the measure were within the scope of the county's authority. After the Washtenaw county board of supervisors, acting under the state enabling act of 1927, belatedly adopted the ordinance in March, 1942, the county was in a position to regulate sanitation in cabin camps and restaurants, and to control the requirement for and location of septic tanks, and of water supply for private dwellings.

Although the staff of the Washtenaw health department is small, its personnel has been increased through the coöperation of other agencies of government. Both the W.P.A. and N.Y.A. offered clerical and non-technical help. A special sanitarian was secured for the county by the state commissioner of health from the U.S. Public Health Service, his traveling expenses to be paid by the county and his salary by the federal government. A similar coöperative arrangement pays for an additional public health nurse assigned to special health problems in the Willow Run area. Rapid turnover in personnel in restaurants caused by the attraction of higher wages in war industries in the vicinity has rendered especially difficult the department's effort to give physical examinations and courses in sanitation to food handlers.

In the enforcement of the sanitation ordinance, the health unit has had general coöperation. When the township clerks issue building permits, they send copies to the county health department, where proposed sanitary facilites can be checked. The Federal Housing Administration refuses to approve loans unless the building plans meet existing sanitary regulations.

Hospital facilities in near-by communities are inadequate to the increased incidence of hospitalization. The federal government is furnishing funds to the city of Ypsilanti to the extent of four-fifths of the cost of a new eighty-bed hospital, while the city has voted $100,000 as its share.

Planning for the area is not a task to be undertaken piecemeal by the individual units of government. An intergovernmental planning commission was created by the city of Ypsilanti, the officials of the city school district, and the township of Ypsilanti. The State Defense Council also undertook a "master survey" of the bomber plant region, including governmental problems, social services, and population trends. As yet, no over-all scheme has been announced. Zoning, one of the most significant aspects of planning, has been undertaken by the various units without correlation. Two townships in Washtenaw county, Ypsilanti, and Ann Arbor availed themselves of the opportunity under state law to enact zoning ordinances in an attempt to control developments until a comprehensive zoning ordinance could be enacted by Washtenaw county.

Although the people of Washtenaw county voted in August, 1941, to give the board of supervisors power to zone under Public Act 79 of 1929, and although the need for zoning has become more evident with the months, no ordinance has been forthcoming from the county planning committee. This delay has stemmed from several factors. First, the supervisors were hesitant to establish detailed land-use zones which they felt would limit unduly the use of land. Second, a mistaken idea was held that the purpose of zoning was to enact a building code. Third, the planning committee did not understand the necessity for technical assistance which would have enabled it to achieve a comprehensive zoning ordinance in a limited time. The campaign which preceded the adoption of the zoning enabling act emphasized that it would prevent tar-paper shacks and rural slums, and the supervisors assumed that the voters did not intend to limit the use of property throughout the county by a series of detailed use zones. Under the guise of the zoning ordinance, they undertook to formulate a building code which the attorney-general indicated to be *ultra vires.* It was at this juncture that the board of supervisors secured the governor's action in requesting the state legislature in special session to amend the county zoning act so that counties such as Washtenaw which had adopted the act could enact building codes as well as use zones within unincorporated areas.

At the same session, early in 1942, a bill particularly vital to Willow Run was proposed to regulate and control "wild cat" subdividing by vesting in the state planning commission full authority to review plans for proposed subdivisions. Under this bill, all plats would have been submitted to the state planning commission. This agency would have passed on the suitability of the land for subdivision purposes and determined whether the subdivision made adequate provision for water supply, drainage, sanitation, recreation and schools, soil and subsoil conditions, and traffic safety. The measure was defeated by rural interests and real estate groups over the protests of the State Planning Commission.

It is mandatory under the zoning enabling act that the State Planning Commission assist the counties in formulating their zoning proposals. Unfortunately, the Michigan commission had been for some years without legislative appropriation, and being in the process of reorganization when Washtenaw needed assistance, it was unable to furnish all-out aid.

On January 31, 1942, the *Detroit News* stated: "To date, there has been absolutely no coördinated planning by federal, state, metropolitan defense area, county, township, municipal, and bomber plant officials. So far as intercommunication is concerned, each might be dwelling on separate planets." The local officials were inclined to feel that the federal government should assume more leadership in a problem which it had created. In midwinter, the secretary of the Ypsilanti board of commerce described the rôle of the federal government as follows: "I have managed to record the names of only 15 representatives of federal agencies of all those calling here since last summer. They pop in and pop out and are never seen again. They tell us how big our problem is going to be and ask us what we are going to do about it. We say: 'You tell us what you want us to do. If you don't know, who does?' But they go away and each one asks the same questions of the same persons around here and that's the last we hear of it."

After the Japanese attack on Pearl Harbor and the successful Japanese invasion of the Dutch East Indies, planning for the future of the Willow Run area shifted from roads to housing. Conservation of dwindling and irreplaceable stocks of natural rubber became paramount. It was obvious that all of the employees at the Ford bomber plant could not be scattered throughout the existing communities in the Detroit metropolitan area and commute to the plant. As the need for large housing projects near the plant developed, it became apparent that the federal government alone was in a position to meet the emergency. The state and local governments had succeeded in coöperating with the federal government in such functions as road-building and public health administration. Events were to demonstrate that relations were not to be so smooth and harmonious in the housing program. Intergovernmental procedures in this field were not predetermined by any established pattern, because the laws of Michigan are not conducive to the establishment of a housing authority in semi-rural areas. Sentiment for the creation of local housing authorities has been lacking.

Even before Pearl Harbor, there had been public discussion of a "bomber city" to be built somewhere between Ypsilanti and Detroit. In November of 1941, Sidney Hillman, as associate director of the then existing Office of Production Management, stated before the national convention of the C.I.O. in Detroit that President Roosevelt had approved a 10,000-unit defense city. This statement was accepted as an endorsement of a model community which the United AutomobileWorkers had advanced to the O.P.M. as a partial solution to the anticipated Willow Run housing problem. The President had told Hillman that he was instructing the responsible federal housing agencies to survey the possibilities of a defense city and submit their findings to him for consideration at the earliest possible moment. Several months later, in February, 1942, it was announced that the President had requested Frederic A. Delano, chairman of the National Resources Planning Board, to coördinate plans to get a housing project under way for the Willow Run area.

Soon Delano held a meeting in Detroit to discuss with local officials and other interested parties the plans for housing. Walter P. Reuther advanced again the desires of the U.A.W. for a model community such as had been proposed in November, 1941. Shortly after this Detroit meeting, on February 24, 1942, President Roosevelt by executive order created the National Housing Agency, naming John B. Blandford, Jr., as administrator, terminating the existing lack of coördination among federal housing agencies. The Administrator was authorized to perform housing functions previously vested in the Federal Loan Administrator, Federal Works Administrator, and the Coördinator of Defense Housing. The new National Housing Agency was composed of three principal constituent units —the Federal Home Loan Bank Administration, the Federal Housing

Administration, and the Federal Public Housing Authority. The F.P.H.A. was an amalgamation of agencies and personnel engaged in constructing housing with public money. Difficulties in the Willow Run area were partially due to the conflicting governmental jurisdictions and levels involved, but dilatory action of the national government relative to housing stemmed, it is presumed, from conflict entirely within the federal government. With the establishment of the National Housing Agency and its component units, the administrative decks in Washington were cleared for action in the Willow Run and other critical regions.

Early in March, 1942, Mr. Blandford announced a housing program for the Detroit region which would include 30,000 units from private funds guaranteed by the F.H.A. and 15,000 units from federal funds under the Lanham Act. Specific sites for the large-scale governmental housing projects were not indicated at the time, but the general scope of the federal contribution was clear to state and local authorities, which meanwhile had become increasingly aware of the dangers inherent in trailer-camp and shack-colony developments mushrooming around the bomber plant.

In mid-April, the federal Public Housing Authority revealed that sites for approximately 7,000 governmental housing units had been selected near Wayne and Inkster, two small communities located respectively nine and thirteen miles from the bomber plant. It was indicated that these would be permanent housing developments. The selection of this site aroused no local opposition. It was not until May that any real argument developed between local and federal authorities over sites for "bomber cities" to meet the needs of the Willow Run plant. Early in that month, it became known that an additional bomber city federally built and federally sponsored would be located northeast of Ypsilanti in Superior township, Washtenaw county. Opposition welled up from the city councils of Ann Arbor and Ypsilanti and the board of supervisors in Washtenaw county. With no low-cost governmental housing projects in existence in the area, the local authorities were thinking in terms of meeting the housing shortage by extensive private developments supported by F.H.A. guaranteed mortgages. Local officials emphasized the importance of building in or near established communities in order to utilize existing community facilities.

Underlying the opposition was the fear that a bomber city in Superior township, Washtenaw county, would be a C.I.O. city, therefore Democratic, and a menace to Republican control of the county. This bomber city, it was held, would be a ghost-town after the war. The Huron River, recently reclaimed by federal-local coöperation in building sewage disposal plants, might again be polluted. Near-by property values would be depressed. Homes so close to the plant would be the first to be bombed.

Local representatives were dispatched to Washington upon two occasions to protest. In May, the county prosecutor presented the county board's objections to Administrator Blandford. In June, when it appeared that the project would be advanced in spite of local objections, the prosecutor was instructed to return to the capital with a resolution requesting the Truman Committee of the Senate to investigate the need for a bomber city in Superior township. Officials of the Ford Motor Company indicated opposition to the building of a new city in this township, citing many arguments prevalent among local authorities. While discord prevailed over ideological and factual differences, the problem of priorities as to critical materials needed for the project appeared more crucial day by day.

Proposed plans for the housing of bomber plant and other workers include, beside the large scale F.H.A. program of 30,000 private housing units, and the Federal Public Housing Authority's program of 15,000 dwellings divided between the Wayne-Inkster and Superior township areas, a temporary dormitory program for 10,000 workers plus temporary apartments for an additional 8,000. These *ad interim* dormitories and apartments are to be built east of Ypsilanti within walking distance of the plant and not far from the Superior township location suggested for a "planned" bomber city. Colonel F. Charles Starr, of the Detroit office of the Federal Public Housing Authority, was quoted by the *Detroit News* of June 7, 1942, pointing out that the bomber plant was planned in 1941, but nothing was really done about housing until 1942: "We start with the fact that the plant is there, and the employees must have shelter. Willynilly, we must provide housing. The people had to choose between a planned community and a shacktown." In arriving at a decision, the people find themselves pulled in contrary directions by governmental agencies on two levels. The F.P.H.A. reflects the point of view of the national administration and progressive community elements, while the Washtenaw board of supervisors represents conservative rural and urban groups. This is inevitable when the national administration proposes projects which involve social concepts not yet widely accepted by local traditions within an area.

The over-all conclusions from this episode in intergovernmental relations are complex. No one level of government can manage the whole situation. If the federal government attempted to do so, it would be dictatorship. If the state of Michigan tried, it would arouse protest. If any local unit claimed exclusive rights, chaos would result. In functions such as road-building and public health administration, where federal-state-local relations were well established in this region, the problems were anticipated and coöperative action to meet them was carried out without friction.

In over-all planning, the number of local units made a difficult field. If the county government had an executive to call in expert help, or if the state and federal governments had given the local officials much-needed assistance, this basic function might have been better handled. In the problem of housing, confusion, conflict, and lost motion were precipitated by the first approaches to the problem, but have now been resolved in favor of the far-reaching federal program. Local authorities had neither the financial resources nor the skill necessary to encompass the needs for low-cost housing on such a scale as the Willow Run plant portends. They waited for the federal government to take the lead, and when precipitate action was taken, resented it. No better evidence could be offered of the sound public policy embodied in the Lanham Act than the general apathy of local governmental authorities to the immediacy of the housing problem evolving before their very eyes.

American intergovernmental relations have been strengthened since World War I. The new federal-state-local procedures developed in the past decade can now pay dividends in the Willow Run region. The machinery of coöperative undertakings was set up partly to meet the emergencies of the depression of the 'thirties. The war in which the United States is now engaged will act as a catalytic agent to produce further changes. The Willow Run problem is neither federal, state, nor local. It is a projection of the thesis that public administration is a unitary process which cuts across the old layers of governmental organization.

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Treatment of the Conscientious Objector Under the Selective Service Act of 1940. Among the many problems which the war has thrust upon the United States has been that of the proper treatment of the conscientious objector to compulsory military service. Our record in this regard during the first World War was not one of which a democratic nation could be proud. With the enactment of the Selective Service and Training Act of 1940, reconsideration of the issue was necessary. Now, after almost two years of experience with the administration of the Act, a systematized plan quite unlike that of the past has been formulated and placed in operation.[1]

When the Burke-Wadsworth bill was first introduced in Congress, no provision was made for the conscientious objector. Within a short time, however, representatives of the Society of Friends (Quakers), Mennonites, and other religious denominations and organizations consulted with

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[1] The present note is based in large part upon the publications of the National Service Board for Religious Objectors (Washington), the National Council for Conscientious Objectors (New York), and the American Friends Service Committee (Philadelphia).

Administration and congressional leaders and secured a guarantee of special treatment for the conscientious objector, which was incorporated in the legislation as finally passed.[2]

The pertinent provision of the Selective Service Act is Section 5(g), which states that no person shall be subject to combatant training and service in the land or naval forces of the United States "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." Any such person whose claim is sustained by the local board shall be assigned to "noncombatant service as defined by the President," or if he is opposed to noncombatant service, to "work of national importance under civilian direction." This section of the act also provides for an appeal from the local board if the claim for exemption is not allowed.[3] As interpreted by the Selective Service organization, the right of conscientious objection is granted to anyone who by reason of personal conviction is opposed to the bearing of arms, and is not limited to members of recognized religious sects, as was the case under the Draft Act of 1917.

Working closely with representatives of the National Service Board for Religious Objectors, a central body organized by the leading pacifist groups, officials of the Selective Service administration have now established the procedure for handling objectors under Section 5(g). All male persons between the prescribed age limits are required to register under the act on designated days. The first formal opportunity to state objection is given in the questionnaire sent to registrants by the local draft board. In this questionnaire the objector may indicate his objection to either combat or noncombatant military service, or to both. At the same time, he is required to ask the local board for a special form on which he must state in detail his convictions, this form to be used by the board in judging his sincerity. The board may call witnesses, including the objector, but is not required to do so prior to classification.

All registrants, including objectors, are classified by the local board. Conscientious objectors are classified along with the others and only those placed in Class I are asked to establish the sincerity of their convictions. In other words, the local board examines the convictions of the objector only if he is not deferred on other grounds, such as physical disability, dependents, or occupational status.

In disposing of those cases where examination of the convictions of the objector is necessary, the local board may do one of three things: (1) It may find that the convictions against military combat service are sincerely held and direct the objector, when his number is called, to perform only such duties as are classified as non-combatant by the President. (2) It may find the convictions against both combatant and non-combatant service to be sincere and direct that the objector be assigned to "work of national importance under civilian direction." (3) It may reject the claim of the objector and order that he be held liable for full military service.

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[2] Committees on Military Affairs, House of Representatives and United States Senate, 76th Cong., 3rd Sess., *Hearings on Compulsory Military Training and Service*, July, Aug., 1940, *passim*.

[3] *U.S. Code*, 1940, Title 50, §305.

If the local board takes the last step, the objector is entitled to a hearing, at which he may "direct attention to any information in his file which he believes . . . has not been given sufficient weight," and "may present such further information as he believes will assist the local board in determining his proper classification." He may also present witnesses in his behalf.[4] If the local board still decides against him, he may appeal to a board of appeal. His appeal is transmitted by the board to a U.S. district attorney. After investigation by the Federal Bureau of Investigation and review of the case by a special hearing officer, before whom the objector may again appear with witnesses, the record is submitted to the Department of Justice and referred back by the Department, with recommendations, to the board of appeal for its decision. As a last resort, the objector may petition his state director or the national director of Selective Service for the right of an appeal to the President. This is, in effect, an appeal to the National Director; for the final disposition is made by him.

Non-combatant service for those willing to participate in the military forces to that extent was defined in a presidential proclamation issued on December 11, 1940. The following were included in such service: service in any unit which is unarmed at all times, service in the Medical Department wherever performed, and service which does not require the use of arms in combat, provided the individual's assignment within such unit or installation does not require him to bear arms or be trained in their use. The proclamation also said that "non-combatant training consists of training in all military subjects except marksmanship, combat firing, target practices, and those subjects relating to the employment of weapons."[5]

Arrangements for those refusing to engage in non-combatant service but willing to perform "work of national importance under civilian direction" were announced on December 21, 1941, by the Director of Selective Service after conferences with representatives of the National Service Board for Religious Objectors and with various government officials, including the President;[6] and the plan was fully authorized by the President in an executive order of February 6, 1941.[7] Under the program outlined in these statements and since put into operation, work camps for objectors have been established under the direct supervision of several of the pacifist groups, with the coöperation of others. Most of the units are located in unused C.C.C. camps, furnished by the Federal Security Agency, supplemented by several camps belonging to the Brethren and American Friends

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[4] *Selective Service Revised Regulations*, cited in National Council for Conscientious Objectors, *Inform. Sheet No. 6.*

[5] Executive Order No. 8606.

[6] *New York Times*, Dec. 22, 1940.

[7] Executive Order No. 8675.

Service Committee. The "work of national importance" calls for physical labor comparable to that performed by men in the armed forces and includes soil conservation, irrigation, forestry and wild-life protection, rural rehabilitation, and public health service. Although the government furnishes basic camp equipment, such as cots, blankets, cooking and eating utensils, and bears the cost of maintenance and repair, the responsibility of camp administration is placed with the several religious groups. It averages about $35.00 a month per man.[8]

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do

Here, then, is the plan. For those who refuse to bear arms, but who are willing to perform non-combatant duty, there is work in medical units or other branches of the regular services. For those who refuse to participate even in such non-combatant activities, opportunity is provided for physical labor of social usefulness under the supervision of the Quakers and other religious groups. It appears that the man who is sincere in his objections to military training and service will be given a fair hearing. But if the objector refuses to register for the draft or to serve under any conditions, he may be prosecuted for violation of law. A considerable number of men were jailed for failure to register at the first call in October, 1940. It should be noted, however, that in several cases of men over forty-five refusing to register in April, 1942, involuntary registration was accepted when the forms were filled out by an official. In two other instances involving refusal to register and refusal to obey the order for induction into the army, the court, instead of sentencing the objectors to federal prison, paroled them to one of the regular C. O. camps.[9]

Mention should be made of the special status of clergymen and divinity students. According to Section 5(e) of the act, they are automatically exempted from military service, although required to register. This has placed some men in this privileged group in a difficult position, for it has denied them the opportunity of expressing their conscientious objection to military service. As a result, some failed to register, notably eight students at Union Theological Seminary in New York City. These men and others have been jailed for this offense.[10] In a few states, local boards are permitting clergymen and divinity students to waive immunity and be classified as any other person.[11]

In conclusion, it may be said that the arrangements made for conscientious objectors are for the most part liberal. Many of the mistakes of the 1917 draft law have been avoided, and the objector is now assured fair treatment. The alternatives to military service are much less severe than before. Probably the most significant feature of the present scheme is the fact that responsibility for the discharge of the public duty of those conscientiously opposed to non-combatant service has been placed in the hands of his own kind, the pacifist religious groups. Certainly this is convincing evidence of sympathetic treatment.

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[8] For descriptions of the work camps, see *Saturday Evening Post*, Vol. 214, No. 7, p. 26 (Aug. 16, 1941), and *New York Times Magazine*, May 10, 1942, p. 14.

[9] Fellowship of Reconciliation press release, May 14, 1942.

[10] *Christian Century*, Nov. 27, 1940, p. 1467.

[11] *Nation*, Jan. 11, 1941, p. 55.

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Denaturalization on the Ground of Disloyalty. The experience of recent years has shown that espionage, sabotage, and subversive propaganda have everywhere been preliminary to, and an integral part of, the program of Axis military aggression. That such activity constituted a threat of increasing gravity to the United States was recognized, even prior to our entry into the present war, by the enactment of legislation designed to strengthen our defenses against propagandist and subversive activities of foreign agents[1] and organizations under foreign control,[2] to tighten up the surveillance of aliens,[3] and to make more rigid the requisites for naturalization.[4] Since the United States became an active belligerent, additional measures have been adopted for the control of alien enemies and nationals of Axis origin.

In the present note, we are not concerned with the broader aspects of the problem of repressing subversive activity, in which both alien and disloyal national elements of the population have participated. We deal only with a special defense available against naturalized citizens in the form of a statute which provides for the setting aside and cancellation of certificates of citizenship on the ground of illegal or fraudulent procurement. Revocation of naturalization, as applied to citizens guilty of disloyal utterances or conduct, is based upon the theory that acts subsequent to naturalization may be indicative of a mental reservation at the time the required oath of allegiance was taken. In other words, it is deemed that disloyal conduct on the part of a naturalized citizen, even though it does not fall within the scope of the criminal statutes, may be of such a character as to demonstrate that the naturalized citizen had never in good faith renounced his allegiance to the country of origin, or that he was not attached to the principles of the Constitution at the time of his admission to citizenship.

During the first World War, the remedy of denaturalization was resorted to in a number of cases, and the "successful outcome of these early litigations and the accompanying wide publicity had," in the opinion of the Attorney-General, "a marked effect upon naturalized citizens of disloyal tendency throughout the country."[5] In the present war, it has already been invoked on an unprecedented scale. Through April 30, 1942, the names and records of 226 naturalized citizens in 33 states had been referred by the Attorney-General to United States district attorneys for denaturalization proceedings, and by June a number of these cases were already in the courts.[6]

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[1] Act of June 8, 1938, 52 Stat. 631; 22 U.S.C.A. §§ 601, 611–616.

[2] Act of Oct. 17, 1940, 54 Stat. 1201; 18 U.S.C.A. §§ 14–17.

[3] Act of June 28, 1940, 54 Stat. 670; 8 U.S.C.A. §§ 451–460.

[4] Act of Oct. 14, 1940, 54 Stat. 1137, 305; 8 U.S.C.A. § 705.

A statutory basis for the revocation of naturalization on the ground of illegal or fraudulent procurement was first provided in Section 15, Act of June 29, 1906,[7] which made it the duty of United States district attorneys, upon affidavit showing good cause therefor,[8] to institute judicial proceedings in any court having jurisdiction to naturalize aliens, for the purpose of setting aside and canceling a certificate of citizenship on the ground of fraudulent or illegal procurement.[8] Prior to the enactment of this provision, a court of equity appears to have been competent, on general principles and without express legislative authorization, to set aside a certificate of citizenship obtained by illegal or fraudulent means.[9] It is unnecessary, however, to consider this question, since the constitutionality of

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[5] *Annual Report of the Attorney-General of the United States* (1918), p. 39.

[6] *Information Digest, Office of Government Reports*, No. 458 (May 6, 1942), p. 8. Numerous cases have since been referred to the courts, but information as to the exact number is not available. During the first six months after the entry of the United States into the war, denaturalization decrees were handed down in 65 cases. *Office of Government Reports Division, Office of War Information*, No. 502 (July 7, 1942), p. 9.

[7] 34 Stat. 601.

[8] In general, the term "illegally procured" refers to cases in which the applicant or the court has failed to follow the requirements of the statute, or where, after disclosure of all facts, the court has erred in its finding of the facts or in its application of the law. See United States v. Ginsberg, 243 U.S. 472 (1917). Thus, for example, a certificate may be canceled for illegal procurement if the applicant has not resided continuously in the United States for a period of five years next preceding his petition, if he was not within the required qualifications as to race, or if the certificate of arrival was not filed with the petition. For a brief discussion of revocation on the ground of illegal procurement, see Luella Gettys, *The Law of Citizenship in the United States* (1934), p. 98 ff. In the fraud cases, with which we are here alone concerned, the applicant has obtained naturalization through intentional falsehood or deception, or through intentional or unintentional failure to disclose certain material facts. See *Univ. of Pa. Law Rev.*, Vol. 88 (1940), p. 842 ff.

[9] United States v. Norsch, 42 Fed. 417 (C.C.E.D. Mo. 1890); Johannessen v. United States, 225 U.S. 227, 240 (1912); *In re* Malocluso's Naturalization, 237 Pa. 132, 137 (1912); United States v. Albertini, 206 Fed. 133, 135 (D. Mont. 1913). In United States v. Spohrer, 175 Fed. 440, 447 (C.C.D.N.J. 1910), Judge Cross stated: "The legislation of 1906 simply permits to be done by different courts and somewhat different procedure what could, under like conditions, in my judgment, have been done by a bill in equity, for the reason that the jurisdiction of the court was fraudulently invoked by the petitioner in an *ex parte* proceeding. The fraud was practiced in the very act of obtaining the judgment, and it, and it alone, induced the judgment, and where that is the case the judgment is open to attack by a direct proceeding in equity."

Section 15 has been uniformly upheld;[10] and, further, since no cases involving revocation on the ground of disloyalty were presented to the courts before 1906.

The provisions of Section 15 have been carried over without material change in the Nationality Act of 1940,[11] now in force. Section 338 of this statute provides: (a) "It shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor,[12] to institute proceedings in any court specified in subsection (a) of Section 301[13] in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground of fraud or on the ground that such order and certificate of naturalization were illegally procured." (b) "The party to whom was granted the naturalization alleged to have been fraudulently or illegally procured shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice in which to make answer to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the state or the place where such suit is brought."[14]

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[10] See cases cited, note 21, *infra*.

[11] Act of Oct. 14, 1940, 54 Stat. 1137; 8 U.S.C.A. §§ 501–907.

[12] "This affidavit is not jurisdictional, but merely makes it the duty of the district attorney to proceed. The district attorney could institute proceedings of this character *sua sponte* whenever he had reason to believe that the law had been violated in the respect alleged in the petition." Schwinn v. United States, 112 F. (2d) 74, 75 (C.C.A. 9th, 1940).

A record of naturalization can be impeached only by the United States, United States v. Norsch, 42 Fed. 417 (C.C.E.D. Mo. 1890); and not by a state, Petersen v. State, 40 Tex. Civ. App. 175 (1905); or by a private person, Commonwealth v. Paper, 1 Brewst. 263 (Pa., 1868). It is not subject to collateral attack, Johannessen v. United States, 225 U.S. 227 (1912).

[13] That is, in any district court of the United States, and in courts of record in any state or territory having jurisdiction in law or equity in which the amount in controversy is unlimited. Jurisdiction to revoke a certificate of naturalization is vested in any court having jurisdiction to naturalize aliens, whether the certificate was granted by that court or by any other court, state or federal. "The suggestion that it is not competent for a federal court to vacate a judgment of a state court and a state court that of a federal court is not persuasive, because the authority of state courts to naturalize aliens, as well as that of the federal courts, emanates from Congress. All are, for the purposes of the naturalization acts, federal courts, and one set of courts is not foreign to the other. So that relief in the particular matter may as readily be adjudged by a federal court against the judgment of a state court, and vice versa, as by a federal court against the judgment of a federal court or a state court against that of a state court." United States v. Aakervik, 180 Fed. 137, 141 (D. Ore. 1910); United States v. Ovens, 13 F. (2d) 376 (C.C.A. 4th, 1926).

The statutory provisions for the revocation of naturalization constitutes only a second line of defense against the fraudulent procurement of citizenship, for under Section 11 of the act of June 29, 1906,[15] the United States was given the right to appear in naturalization proceedings and to be heard in opposition to the granting of any certificate. Whether or not the United States has availed itself of this opportunity, the decree admitting the applicant to citizenship does not estop the government from subsequently instituting a suit for cancelation. A decree granting citizenship is not *res judicata*, even though the government entered an appearance in the final hearing and unsuccessfully raised the same objection as that which later formed the basis of the cancelation proceedings. The provisions which authorize the appearance of the United States and the filing of an independent bill in equity for cancelation afford cumulative, and not alternative, remedies.[16,17] The rationale of the numerous decisions

[14] In holding that service of subpoena by publication is not a denial of due process, Judge Bourquin, in United States v. Knight, 291 Fed. 129, 131, said: "The relations between state and citizen, the latter's obligations to the former, are unchanged by his absence. The state is where he left it. He is bound to hear and to respond to its call to render the service of allegiance and to account for default therein at any time in any place. It is not obliged to pursue him with personal notice, but may adopt publication or other convenient method. For the state's purposes, the *res* and *situs* of the relation between it and the absent citizen remain in the territory of the state. There is analogy in marriage and divorce. Hence, jurisdiction and due process."

[15] Sec. 334 (d), Nationality Act of 1940; 8 U.S.C.A. § 734 (d).

[16] In Johannessen v. United States, 225 U.S. 227, 238 (1912), the Supreme Court denied that a certificate had any conclusive effect when procured *ex parte* in the ordinary way, but left open the question whether the doctrine of *res judicata* was applicable where the government had appeared and litigated. This question was answered in the negative in United States v. Ness, 245 U.S. 319, 327 (1917), in which it was held that "§ 11 and § 15 were designed to afford cumulative protection against fraudulent naturalization." *Accord*, United States v. Milder, 284 Fed. 573 (C.C.A. 8th, 1922); United States v. Khan, 1 F. (2d) 1006 (W.D. Pa. 1924); United States v. Turlej, 18 F. (2d) 435 (D. Wyo. 1927), *aff'd*, Turlej v. United States, 31 F. (2d) 696 (C.C.A. 8th, 1929); United States v. Unger, 26 F. (2d) 114 (S.D. N.Y. 1928); United States v. Parisi, 24 F. Supp. 414 (D.Md. 1938); Maney v. United States, 278 U.S. 16 (1928). The principle is summarized by Judge Tuttle in United States v. Ali, 7 F. (2d) 728, 730 (E.D. Mich. 1925): "It is now settled law that the statutory naturalization proceeding by which an alien seeks the privilege of citizenship is not a judicial adversary proceeding in any true legal sense, and that an order directing the issuance of a certificate of citizenship in such naturalization proceeding is, in essence, not a judgment rendered by a court in a pending suit between adverse parties, and as such final and binding upon said parties as to all matters involved in the suit and decided by the judgment, but is merely a grant, in special proceedings authorized by Congress, of a political privilege conferred by the government upon the petitioning alien purely as a gratuity, and subject to whatever terms and conditions Congress may impose therein, including the right

which have established this point is that "an alien who seeks political rights as a member of this nation can rightfully obtain them *only* upon terms and conditions specified by Congress. . . . No alien has the slightest right to naturalization unless all statutory requirements have been complied with."[18] "An alien has no moral or constitutional right to retain the privileges of citizenship if, by false evidence or the like, an imposition has been practiced upon the court, without which the certificate of citizenship could not and would not have been issued. As was well said by Chief Justice Parker in Foster v. Essex Bank, 16 Mass., 245, 273, 'there is no such thing as a vested right to do wrong'."[19]

The constitutionality of the statutory provisions for revocation of naturalization has been challenged on three principal grounds: (1) that the act of June 29, 1906, is invalid as an exercise of judicial power by the legislative department; (2) that cancelation, being retrospective in opera-

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of government to insist upon a cancelation of such certificate, if found to have been illegally procured." See Henry B. Hazard, "The Doctrine of *Res Judicata* in Naturalization Cases in the United States," *Am. Jour. of Internat. Law*, Vol. 23 (1929) pp. 50–55.

An acquittal in a criminal prosecution for fraudulent procurement of naturalization has been held not *res judicata* of the issue whether a certificate of naturalization has been fraudulently procured. It does not constitute estoppel by judgment in subsequent proceedings for cancelation, since the latter proceeding is not the same cause of action as the criminal prosecution. Sourino v. United States, 86 F. (2d) 309 (C.C.A. 5th, 1936); *cert. denied*, 300 U.S. 661 (1936). In this case, the sole issue in the criminal prosecution was the bar of the statute of limitations. The doctrine of laches is inapplicable in cancelation proceedings. In United States v. Ali, 7 F. (2d) 728, 730 (E.D. Mich. 1925), it was stated: "It is not, and cannot be, claimed that there is any applicable statute of limitations; and it is elementary that the doctrine of laches does not apply as against the government, when suing in its capacity as a sovereign and asserting governmental rights." *Accord*, Maibaum v. United States 232 U.S. 714 (1914); United States v. Marino, 27 F. Supp. 155 (S.D.N.Y. 1939); United States v. Brass, 37 F. Supp. 698 (E.D.N.Y. 1941).

[17] Although the contrary had been stated in United States v. Ness, 245 U.S. 319, 326 (1917), it is now settled law that the United States can appeal from a decree granting a petition for naturalization. Tutun v. United States, 270 U.S. 568 (1926); United States v. Ovens, 13 F. (2d) 376 (C.C.A. 4th, 1926); United States v. Bischof, 48 F. (2d) 538 (C.C.A. 2d, 1931); Estrin v. United States, 80 F. (2d) 105 (C.C.A. 2d, 1935); United States v. Villaneuva, 17 F. Supp. 485 (D.Nev. 1936). See Henry B. Hazard, "The Right of Appeal in Naturalization Cases in the Federal Courts," *Amer. Jour. of Internat. Law*, Vol. 21 (1927), pp. 40–52.

[18] United States v. Ginsberg, 243 U.S. 472, 475 (1917)

[19] Johannessen v. United States, 225 U.S. 227, 241 (1912).

A certificate of naturalization has frequently been compared to a patent for land or for an invention, revocable by judicial proceedings on the ground of fraudulent procurement. See Luria v. United States, 231 U.S. 9, 28 (1913); United States v. Albertini, 206 Fed. 133, 135 (D. Mont. 1913); and United States v. Spohrer, 175 Fed. 440, 446 (C.C.D.N.J. 1916), in which it was said: "That the government, especially when thereunto authorized by Congress, has the right to recall whatever of property tion,[20] is within the prohibition of Art. I, Sec. 9, Cl. 3, of the United States Constitution relating to *ex post facto* legislation; and (3) that it deprives the "defendant" of the right of trial by jury, as guaranteed by the Seventh Amendment. After the passage of the act of 1906, the action for cancelation of fraudulent certificates was generally sustained by the United States district courts, and in 1912 the Supreme Court gave a direct ruling on the first two objections in the case of Johannessen v. United States.[21] Speaking for a unanimous court, Mr. Justice Pitney said: "The act does not purport to deprive a litigant of the fruits of a successful controversy in the courts; for . . . the proceedings for naturalization are not in any proper sense adversary proceedings, but are *ex parte* and conducted by the applicant for his own benefit. The act in effect provides for a new form of judicial review of a question that is in form, but not in substance, concluded by the previous record, and under conditions affording to the party whose rights are brought into question full opportunity to be heard. Retrospective acts of this character have often been held not to be an assumption by the legislative department of judicial powers. . . . The act imposes no punishment upon an alien who has previously procured a certificate of citizenship by fraud or other illegal conduct. It simply deprives him of his ill-gotten privileges. We do not question that an act of legislation having the effect to deprive a citizen of his right to vote because of something in his past conduct which was not an offense at the time it was committed would be void as an *ex post facto* law. . . . But the act under consideration inflicts no such punishment, nor any punishment, upon a lawful citizen. It merely provides that, on good cause shown, the question whether one who claims the privileges of citizenship under the certificate of a court has procured that certificate through fraud or other illegal contrivance, shall be examined and determined in orderly judicial proceedings. The act makes nothing fraudulent or unlawful that was honest and lawful when it was done. It imposes no new penalty upon the wrongdoer. But if, after fair hearing, it is judicially determined that by wrongful conduct he has obtained a title to citizenship, the act provides

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has been taken from it by fraud, is . . . well settled, and, if that be true of property, then by analogy and with greater reason it would seem to be true where it has conferred a privilege in answer to the prayer of an *ex parte* petitioner. A recall of this character injures no one but the fraud doer, and his discomfiture is entitled to but slight consideration."

[20] The provisions of Section 15 of the Act of 1906 were expressly made applicable to certificates issued prior to 1906. The Nationality Act of 1940, Section 338(g) (8 U.S.C.A. § 738(g)) stipulates: "The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization issued under the provisions of this Act, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court."

[21] 225 U.S. 227 (1912); Luria v. United States, 231 U.S. 9 (1913).

that he shall be deprived of a privilege that was never rightfully his. Such a statute is not to be deemed an *ex post facto* law."[22]

The above statement that proceedings for the cancelation of naturalization are not adversary in character is decisive of the question whether there should be trial by jury. In the first case to come before the court, under Section 15, Judge Hough said: "The proceeding . . . if not *sui generis*, somewhat resembles a bill to revoke or set aside a grant or patent, or to cancel and vacate a judgment, and such causes are not of right triable by jury."[23] This ruling was affirmed by the Supreme Court in Luria v. United States, in which it was held that a cancelation proceeding was "not a suit at common law. The right asserted and the remedy sought were essentially equitable, not legal, and this, according to the prescribed tests, made it a suit in equity. . . . "[24]

In a group of cancelation cases decided during, or shortly after, the first World War, it was held that expressions of sympathy toward their former country by naturalized citizens of German origin were evidence of lack of complete renunciation of all foreign allegiance at the time citizenship was granted. The constitutionality of this principle of "relation back," as applied to another provision of Section 15, act of June 29, 1906, had already been sustained by the Supreme Court,[25] but it appears to have been first invoked in a case involving an adopted citizen's disloyal attitude *subsequent* to naturalization in the case of United States v. Wursterbarth, decided in May, 1918.[26] The respondent, a native of Germany, had been naturalized in 1882. After the United States entered the war, he made repeated statements that he would do nothing to defeat

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[22] 225 U.S. 227, 241, 242 (1912).

[23] United States v. Mansour, 170 Fed. 671, 676 (S.D.N.Y. 1908).

[24] 231 U.S. 9, 28 (1913).

[25] Luria v. United States, 231 U.S. 9 (1913). Section 15, par. 2 [8 U.S.C.A. § 738 (f)] provided that if a naturalized citizen takes up permanent residence abroad within five years after his naturalization, it shall be *prima facie* evidence of a lack of intention to become a permanent citizen at the time of filing his petition for citizenship. In the absence of countervailing evidence to overcome the adverse presumption, cancelation for fraud was authorized. In holding that Section 15 "prescribes a rule of evidence, not of substantive right," Justice Van Devanter said: "Legislation providing that proof of one fact shall constitute *prima facie* evidence of the main fact in issue, is but to enact a rule of evidence, and quite within the general power of government. . . . That a legislative presumption of one fact from evidence of another may not constitute a denial of due process of law or a denial of the equal protection of the law, it is only essential that there shall be some rational connection between the fact proved and the ultimate fact presumed, that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate. . . . " *Ibid.*, at 25. See Glaser v. United States, 289 Fed. 255 (C.C.A. 7th, 1923); United States v. Turlej, 18 F. (2d) 435 (D. Wyo. 1927), *aff'd*, Turlej v. United States, 31 F. (2d) 696 (C.C.A. 8th, 1929); Rothman v. United States, 18 F. (2d) 577 (C.C.A. 6th, 1927).

[26] 249 Fed. 908 (D.N.J. 1918).

Germany, that he did not wish to see the United States win the war, and that he had come to this country only "on a vacation or visit." In answer to the respondent's contention that evidence of disloyalty displayed subsequent to naturalization was not sufficient to show lack of good faith or fraudulent intention at the time the oath of allegiance was taken, Judge Haight said: "As the years succeeding his naturalization passed, coupled with the fact that he continued to dwell within our midst, associate with our citizens, receive the benefits which this nation and its institutions have conferred upon him, acquire property here, and hold public office . . . , it is natural to presume that his affection and feeling of loyalty and allegiance to this country would increase, and that any ties which bound him to the country from which he came would correspondingly decrease. If, therefore, under such circumstances, after 35 years, he now recognizes an allegiance to the sovereignty of his origin, superior to his allegiance to this country, it seems to me that it is not only permissible to infer from that fact, but that the conclusion is irresistible, that at the time he took the oath of renunciation, he did so with a mental reservation as to the country of his birth, and retained toward that country an allegiance which the laws of this country required him to renounce before he could become one of its citizens. Indeed, for the reasons just stated, his allegiance to the former must at that time have been stronger than it is at present."[27]

Cancelation of naturalization, under like circumstances and on like grounds, followed in several cases,[28] of which United States v. Herberger[29] is the most significant. In letters written during the fall of 1917, the respondent expressed strong criticism of the war effort of the United States and deep contempt for the American people. It was admitted by the court that such expressions were not sufficient to warrant a conviction for treason; but, Judge Cushman said: " . . . It is not necessary that a man be shown to be guilty of treason in order to conclude from his actions and speech that he is not loyal and has not been loyal; that he is not attached to the country and its principles and devoted to its welfare. . . . Loyalty or allegiance is, necessarily, of slow growth; therefore, somewhat involun-

[27] *Ibid.*, at 910.

[28] United States v. Darmer, 249 Fed. 989 (W.D. Wash. 1918); United States v. Kramer, 262 Fed. 395 (C.C.A. 5th, 1919); Schurmann v. United States, 264 Fed. 917 (C.C.A. 9th, 1920). In the latter case, the respondent, after war was declared against Germany, had stated: "I have sworn allegiance to your flag or country; but I am going to tell you this much: That I didn't swear away my birthright." Judge Hunt commented on this statement as follows: "One who spoke in that way, and whose frequent expressions were so plainly against the United States and in favor of Germany, must have taken the oath of full faith and allegiance with a reserved determination, to be kept down, but nurtured, until a momentous time might come. In years, however, the time did come, and the criterion of original fraud must be the later conduct, which, in its relation to the earlier attitude, will furnish safe ground for judgment." *Ibid.*, at 920.

[29] 272 Fed. 278 (W.D. Wash. 1921).

tarily, not fully subject to the will. Those who lightly, for temporary advantages, undertake to change their allegiance are liable to overlook the deep-seated nature of this feeling; but the fact that not until afterwards, in times of stress, is it made manifest that the desires, suffered to lie dormant, are stronger for their native than their adopted country, although this fact may not be fully realized at the time of their naturalization, renders it none the less a legal fraud for the applicant to fail to disclose his true, although latent, feeling in such a matter."[30]

In one World War case, the government sustained a reversal.[31] The United States brought a suit to cancel the certificate of one Woerndle, who had been naturalized in 1904. The evidence showed that prior to the entry of the United States into the war, the respondent had sympathized deeply with Germany, had expressed hostility to her enemies, and had criticized the policy of the President, which, he said, was calculated to involve the United States in the conflict. From the date when the United States became a belligerent, there was no evidence of any disloyal acts or utterances on the part of the respondent. The complaint was dismissed on the ground that the government had failed to prove its contention that the respondent's expressions were such as to justify the conclusion that he had in 1904 intended to subordinate his allegiance to the United States to that which he had owed his country of origin.

The above cases, in which disloyal conduct *subsequent* to naturalization is deemed to be the criterion of original fraud, must be distinguished from those in which the applicant actually retained a foreign allegiance or believed in the forcible overthrow of government *at the time of his naturalization*, and failed to disclose it to the court. In the earliest case of this type,[32] cancelation was decreed when the government proved that the respondent had obtained naturalization through fraudulent concealment of the fact that he was at that time opposed to the form of government of the United States and that he believed in its overthrow by violence. Naturalization has been revoked on the ground that the applicant was a member of the I.W.W.,[33] an anarchist,[34] or a communist[35] when the certificate was issued, and that he was not, therefore, "attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States."[36]

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[30] *Ibid.*, at 290, 291.

[31] United States v. Woerndle, 288 Fed. 47 (C.C.A. 9th, 1923). See United States v. Rovin, 12 F. (2d) 942 (E.D. Mich. 1926), in which it was held that mere advocacy of a resumption of trade relations with the Soviet Government was not indicative of a disloyal attitude, justifying cancelation on the ground of fraud. There was no evidence that the respondent, at the time of his naturalization or at any subsequent time, advocated any change in the governmental system of the United States by other than lawful means. In Rowan v. United States, 18 F. (2d) 246 (C.C.A. 9th, 1927), the court considered it to be "far too conjectural" to suppose that the respondent, who had joined the I.W.W. in 1912 and remained a member through 1917, must at the time of his naturalization in 1907 have been opposed to organized government, or lacking in allegiance to the United States. Nor was the fact that Rowan was convicted in 1917 of a violation of the Espionage Act logically probative of his state of mind in 1907.

[32] United States v. Olsson, 196 Fed. 562 (W.D. Wash. 1912).

Since the presumption that the state of mind of a person at the time of his naturalization was the same as when he subsequently committed an act of disloyalty is often extremely weak as a basis on which to predicate fraud, proceedings for the revocation of citizenship should be resorted to only in clear cases. Otherwise, a decree of cancelation will be open to the charge that the real basis is not fraud committed on the court, but an offense committed by the citizen subsequent to his naturalization.[37] As Judge Bourquin said in the case of United States v. Sharrock: "To deprive a man of his priceless possession of and inestimable right to American citizenship, there must be full proof. Nothing will warrant cancelation of his grant of citizenship, but clear, unequivocal, and convincing evidence that in quantity and quality inspires conviction of the truth of the charge, virtually beyond reasonable doubt."[38]

Because of the peculiar instability of decrees and orders of naturalization which arises out of the possibility of cancelation for fraud, it has been recommended that Congress enact a substantive penalty section providing for the denationalization or denaturalization of all persons convicted of "offenses against the existence of government,"[39] as it has already done in the case of desertion from the armed forces in time of war, and treason.[40]

In this note, we have discussed only the legal background for a consideration of the cancelation cases now pending in the federal courts. These cases, together with some criticism of the present law, will, it is hoped, be made the subject of a later discussion.

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[33] United States v. Swelgin, 254 Fed. 884 (D. Ore. 1918).

[34] United States v. Stuppiello, 260 Fed. 483 (W.D.N.Y. 1919).

[35] United States v. Tapolcsanyi, 40 F. (2d) 255 (C.C.A. 3d, 1930); United States v. Schneiderman, 33 F. Supp. 510 (N.D. Cal. 1940), *aff'd*, Schneiderman v. United States, 119 F. (2d) 500 (C.C.A. 9th, 1941), *cert. granted*, 62 S. Ct. 98 (1941). See *Bill of Rights Review*, Vol. 2 (1941), pp. 64–65.

[36] Act of June 29, 1906, Sec. 4; 8 U.S.C.A. § 707 (a). See Henry B. Hazard, "'Attachment to the Principles of the Constitution' as Judicially Construed in Certain Naturalization Cases in the United States," *Amer. Jour. of Internat. Law*, Vol. 23 (1929), pp. 783–808, esp. 802–806.

[37] See dissenting opinion by Judge Booth in Turlej v. United States, 31 F. (2d) 696, 699, 700 (C.C.A. 8th, 1929).

[38] 276 Fed. 30, 32 (D. Mont. 1921). Also, United States v. Tedesco, 31 F. Supp. 322 (S.D.N.Y. 1940); United States v. Zgrebec, 38 F. Supp. 127 (E.D. Mich. 1941); United States v. Der Manelian, 39 F. Supp. 959 (D.R.I. 1941).

[39] See Forrest R. Black, "Disloyalty and Denaturalization," *Ky. Law Jour.*, Vol. 29 (1941), pp. 143–171, esp. 168–171. "Offenses Against the Existence of Government" are defined in Title 18, U.S.C.A., Ch. 1.

[40] Nationality Act of 1940, Sec. 401 (g), (h); 8 U.S.C.A. § 801 (g), (h).

INTERNATIONAL AFFAIRS

The Return of the Baltic Germans. There is little point to speculating at this time upon the historical significance of the resettlement of populations recently carried out in Europe. Yet the mechanics of a transfer of such magnitude are of interest, and a fairly adequate account can now be presented of the return of the Baltic Germans.

On October 15, 1939, Estonia, and on October 30, 1939, Latvia, signed treaties regulating this translocation of persons of German nationality. No agreement was made with Lithuania where, after the loss of Memel, there remained only about 30,000 Germans, mostly peasants.[1] An official account summarizes the German-Estonian agreement as follows:

"According to the protocol, all persons who were entered in the lists of the German Cultural Autonomy Administration[2] or who had a certificate from the Ministry of the Interior that they were of German nationality were allowed to go, with their husbands or wives, parents, and children.

"The emigrants were allowed to take with them, free of duty, their furniture; or it could be sent out within three months of their departure. They could also take their tools, and to a limited extent materials which they needed to carry on their trade. They were allowed to take cash in Estonian currency up to Kr. 50 per person, and jewelry up to the value of

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[1] Lithuania apparently played a somewhat different part in German plans from that of Estonia and Latvia. The German Foreign Minister, Ribbentrop, stated on June 22, 1941, that in the first Russian-German pact of August 23, 1939, Lithuania remained in the German sphere of interest. In the second pact—the frontier and friendship agreement of September 28, 1939—the German government "with heavy heart" relinguished its interests in a greater part of Lithuania to Russia. A strip of Lithuania, however, "still remained within the German sphere of interest." Ribbentrop further maintained that the Soviet government declared at that time "that it did not intend to occupy, Bolshevize, or annex any states situated within their sphere of interest other than territories of the former Polish state" (*New York Times*, June 23, 1941). This latter statement is in accord with the Russian promises made to the Baltic States in the autumn of 1939. In a secret clause to the Russian-Latvian pact of October 5, 1939, Russia even promised that the number of troops stationed in Latvia should not exceed 25,000, and that after the conclusion of the European War these should be recalled to Soviet Russia (*Latvian Information Bulletin*, issued by the Latvian Legation, Washington, D.C., June, 1941, p. 2).

[2] In 1925, a law was passed which permitted any minority of over 3,000 to establish a representative Cultural Council of from twenty to sixty members, with an executive committee. This council was empowered to control the educational, cultural, and charitable institutions ministering to the minority concerned. It could levy taxes, and in addition was granted certain funds from the state treasury, particularly educational subsidies. The law was one of the wisest and best administered attempts to deal with minorities in post-war Europe. See C. A. Macartney, *National States and National Minorities* (London, 1934), p. 408; A. Pullerits (ed.), *Estonia: Population, Cultural and Economic Life* (Tallinn, 1937), pp. 16–17.

Kr. 500 per person. The emigrants' surplus cash was paid into the German Legation's account with the Bank of Estonia, and shares, bonds, etc., were also deposited by the German Legation with the Bank of Estonia.

"The management, liquidation, and transfer to Germany of the remainder of the emigrants' property was left to a special German Trust Board to be formed at the German Consulate in Tallinn. It was agreed that the Trust Board, in managing, liquidating, and transferring the property, should bear in mind the economic interests of Estonia. The Estonian government undertook to assist in the peaceful realization of the property, to avoid any losses through hurried sales. The transfer of the proceeds to Germany is to be done in such a manner as not to injure Estonian balance of payments and economic life."[3]

The German minority in Latvia was larger and the amount of property affected, especially industrial establishments, was much greater. The provisions were similar to the Estonian agreement. A special trustee society (*Umsiedlungs-Treuhand-Aktiengesellschaft* [U.T.A.G.]) was created, subject to the Latvian law in regard to joint stock corporations.[4] This society was to be the sole representative of the emigrant before the Latvian courts, government departments, etc., and above all was to supervise the transfer of funds. Movable property might be taken along, or deposited with the Latvian customs authorities for subsequent export until March 15, 1940, or sold. Certain movable objects which could not be taken away (works of art and rare objects of historical value) were to be deposited with the U.T.A.G. by May 15, 1940, although this date did not apply to stocks and bonds. Rural property was to be liquidated by January 31, 1940, the Latvian government issuing bonds for the property in accordance with a valuation agreed upon by the U.T.A.G. and Latvian officials. Immovable property in the cities which had not been turned over to the U.T.A.G. by December 31, 1941, was to be liquidated in accordance with an agreement to be negotiated later.

The agreements provided that the emigration from Latvia should be completed by December 15, 1939, and that from Estonia by January 15, 1940, although the latter date was changed to March 1, 1940. The evacuation was begun with the Reich Germans, that is, those who, though living in the Baltic states, were already German citizens. From the beginning, the foreign section of the N.S.D.A.P. took an active part in the whole procedure.[5] Party officials were sent to Riga and Reval, and they coöperated with the regular diplomatic officers in working out the details of the evacuation agreements. In Berlin, a bureau for returning Germans, with a special Baltic section, was created within the foreign section of the party. This bureau established subsections in Gothenhafen (Gdynia) and Posen. Within the Baltic states the party officials were able to work with the leaders of the well organized German groups, for over the centuries German minorities had perfected their organizations. Voluntary workers were organized by the Baltic Germans, and a voluntary labor service, recruited from the youths of the 1913–19 classes, was instituted.

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[3] "Chronique," *Revue Baltique*, Vol. 1, pp. 144–145 (Feb., 1940).

[4] For the text of the German-Latvian treaty, see *Latvian Information Bulletin*, Dec. 21, 1939.

[5] Information with regard to the set-up of the evacuation procedure as here described was obtained from Hans Krieg, *Baltischer Aufbruch zum deutschen Osten* (Berlin, 1940), pp. 26–53.

Little information is available as to what arguments, allurements, and pressures the people were subjected to. No doubt fear of a Communist occupation played a part. But all in all it was a voluntary exodus, for certainly neither the Estonian nor Latvian government exerted any pressure to get the Germans to leave. A shortage developed in crating material, and a supply was rushed from Germany. Even several tons of nails were flown to Latvia. Overnight, suitcases, trunks, crates, baskets, and materials of all description were piled high on the docks of Riga and Reval. Livestock in many instances was also taken along, and more than 6,000 head of cattle were exported from Latvia. Much equipment, of course, was sold, some was left to be liquidated later, and many gifts were made to good Latvian or Estonian friends.

Not only did whole families, congregations, villages set out *en masse*, but orphanages and old people's homes were also taken along. Special arrangement had to be made for state wards, the sick, women with babies, the aged, etc. In Latvia, the country was divided into forty-five evacuation districts and the state placed trains at the disposal of the evacuation leaders. Systematically, people from one area after another were transported to Riga or other ports. From here as well as from Estonian ports German steamers provided transport services.[6] The cabins went to women and children, while the men slept on sacks of straw in the common rooms. The National Socialist party did not fail to provide entertainment en route, but the approved reports made no attempt to minimize the anguish and heartaches which seized individuals on leaving lands where for centuries their ancestors had fought as an advance guard of German culture.

Danzig, Gothenhafen, Swinemünde, and Stettin were the ports of entrance for the Baltic Germans. After the invariable ceremonial greeting, the process of finding quarters began. Schools, meeting halls, deaconess homes, etc., had been prepared to house the newcomers. Many were received temporarily into private homes. The majority were immediately transferred to the interior and housed there in much the same fashion. The first ship-loads went mostly to Posen, and as the numbers increased, to temporary quarters in Pomerania. Many of the aged and sick were shifted to the Baltic resorts of Heringsdorf, Ahlbeck, Bansin, and Misdroy, where they were quartered in hotels and boarding houses which only a few months earlier had been filled with summer guests. Various state and party organizations such as the S.S., the S.A., the Kraft durch Freude, and the Red Cross, directed affairs. Throughout, however, Baltic Germans as leaders of their respective organizations, and particularly of the neighborhood groups (*Nachbarschaften*), shared in the executive tasks.

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[6] "In the course of the repatriation, German ships called at Latvian ports 73 times in order to take home their blood brothers." *Latvian Monthly Bulletin*, issued by the Latvian Legation in London, Jan., 1940, pp. 2–3.

The Central Office for Immigration (*Einwandererzentrallstelle*) was set up in the city of Posen, with substations at Gothenhafen, Stettin, and for a time at Schneidemühle. Here the Reich Ministry of Interior had bureaus for registration, identification, photography, health, and citizenship; the Ministry of Finance had a bureau to look after the property of the immigrants and a branch of the Reichsbank; the Ministry of Labor had various different occupational bureaus; the Ministry of Transport, sections for transport and baggage; and finally there was "the Baltic German Immigration Advisory Bureau for the care of Returning Germans." These bureaus were staffed with state and party officials, but also in large part with Baltic Germans.

Every head of a family, woman, and child over fifteen received in the temporary quarters a large brown envelope containing forms and directions which would ultimately lead to a permanent place of residence. The registration form called for name, family status, place and date of birth, occupation, religion, previous citizenship, Aryan antecedents, parentage, names of children, date and place of emigration, and present residence, and was presented to the registration bureau. After this was inspected, the individual received an identification number from the next bureau and thereupon was immediately photographed with this number as his choicest possession. Officials went to hospitals and homes to photograph those who could not come to the Central Office. The physical examination and inquiry into hereditary background followed. All received an X-ray examination, which attests to a rather high standard of physical examination. The bureau for citizenship was not merely a rubber-stamping agency, for a number of native Estonians and Latvians, as well as individuals without definite citizenship, had received permission to join the emigration. Special inquiry as to German antecedents was made, and the normal course called for immediate issuance of citizenship papers. The Baltic German was now entitled to all the privileges, but also all the duties, of a Reich citizen.

Next came an examination, by the officials of the Ministry of Finance, of the form relating to property. Naturally many problems arose here, especially with regard to property which had been left behind. Places to exchange for marks what currency had been brought along were of course established in many localities, and provided immediate pocket money. Immigrants could exchange their credits which were tied up in the general liquidation account at the favorable rate of 60 R.M. for 100 Latvian lats, or 80 R.M. for 100 Estonian crowns. But many people had no funds; in other cases their property was so involved that they had no clear bills of credit on hand. In order to finance the establishment of these individuals, the German government made credit advances, and a group of banks under the leadership of the Dresden Bank provided more than 100,000,000 R.M. In addition, credit in materials, for example, trade tools, agricultural machinery, fodder, or grain were provided.

The occupational bureau had one of the heaviest and most varied tasks. It had sections for handicrafts and trades, agriculture, commerce, technical and other professions, officials, and occupations for women. In addition, there was an advisory division for youths in regard to occupations and educational questions. *Rentiers* also had a special classification. Information with respect to former occupations, aptitude, training, etc., was noted on a card. At the same time, information was recorded with regard to the need for dwelling space.

In general, it took an individual from three to four hours to be "sluiced" through the above procedure, and about a thousand individuals were taken care of in a day.[7] Then the wait for final location was begun. The general rule was that families, groups, and communities were to live together in the Reich as in their former homes. In locating members of the professions, as for example doctors and lawyers, the existing professional organizations were consulted. The settlement of peasants was relatively the easiest, for there was plenty of land available in the territory taken from Poland. The exigencies of war economy demanded that many individuals accept new occupations, at least temporarily. They were, however, free to try to find other occupations more to their liking, but with the important restriction that they must remain in the territory set aside for their settlement, the Reichsgauen Danzig-West Prussia or Wartheland.

At the Central Office in Posen, the key information center was established. Here a card catalogue showed the whereabouts of each individual, the location of his baggage, property, etc. Here also all mail was sorted; for apparently the Baltic Germans were always able to remain in touch with those who remained behind or had not yet been able to emigrate.

From Latvia, 46,921 Germans and 887 persons of other nationality and individuals not possessing national passports availed themselves of the opportunity to acquire German citizenship. In addition, 200 German Latvians registered at Latvian consulates abroad as desiring to transfer their citizenship.[8] Up to January 1, 1940, 10,849 Germans and about 900 of other nationality left Estonia. Probably four or five hundred more left in January and February, although the exact figure is not available.[9]

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[7] Krieg, *Baltischer Aufbruch*, p. 43; see also Hans Krieg (ed.), *Baltenbrief zur Rückkehr ins Reich* (Berlin, 1940), pp. 68–69.

With this exodus, if deductions are made from the last census figures, it would appear that about 4,000 Germans remained in Estonia and 12,000 in Latvia. With the complete absorption of the Baltic states into Russia in July–August, 1940, Germany undertook negotiations with Moscow with regard to the possible return of those who remained behind, as well as for the 30,000 Germans in Lithuania.[10] How the Russian occupation of the Baltic states affected the carrying out of the complicated financial agreements negotiated by the former Estonian and Latvian governments is not known. Details have never been published, but we are told that Part II of the German-Russian trade agreement of January 10, 1941, dealt with "the settlement of mutual property claims concerning Lithuania, Latvia, and Estonia, and with the migrations of populations. . . . " German citizens and persons of German nationality, if they desired, could leave for a period of two and one-half months after the signature of the agreements. On January 14, 1941, it was announced in Berlin: "Germans coming from Lithuania will . . . number about 45,000. Another 12,000 are expected from Latvia and Estonia."[11] These transfers, as well as others from Bessarabia, Bukowina, and Russian-occupied Poland, presumably were largely carried out before the outbreak of the Russo-German war.

How efficiently this modern translocation of Germans was accomplished and with what satisfaction to the individuals concerned, remains a subject for further inquiry. The fact that the original Baltic exodus was a friendly "return," sought after by the Reich officials, no doubt eliminated many of the hardships usually associated with the deportation or exchange of minorities. The other side of the picture—the fate of the Polish inhabitants of the region assigned to the Baltic Germans—we do not know. Many fled before the invading German armies; others no doubt have been deported. On this aspect of the problem, no definite and reliable information is at hand; but eventually, too, the history of this sad episode will be written.

E. C. HELMREICH.

Bowdoin College.

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[8] *Latvian Information Bulletin*, Jan. 31, 1940, p. 2.

[9] "Chronique," *Revue Baltique*, Vol. 1, p. 145 (Feb., 1940).

[10] *New York Times*, Aug. 26, 1940.

[11] *Ibid.*, Jan. 11, 15, 1941.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

After carefully considering a variety of factors which in a war year inevitably affect such a decision, the Executive Council of the American Political Science Association finally agreed upon Chicago as the place for the thirty-eighth annual meeting. The dates are December 28–30, with headquarters probably at the Palmer House. The first day will again overlap with the annual meeting of the American Society for Public Administration, and a number of joint sessions are scheduled.

The task of program-making has not since 1918 been attended with so many uncertainties. As a first step, the program committee (Harwood L. Childs, Princeton; Denna F. Fleming, Vanderbilt; Clarence E. Ridley, Chicago; Francis G. Wilson, Illinois, and Harold W. Stoke, Wisconsin, *chairman* sent out a large number of inquiries to members of the Association requesting reports on significant research in progress, suggestions for appropriate topics for section and round table meetings, and comments on the organization of the program. There emerged from these replies several general principles which the committee adopted for its guidance: (1) The program should not be finally crystallized until the latest moment possible. (2) The distinction between round table and section meetings should be retained. (3) No round table or section should be scheduled for more than one meeting. (4) Although efforts should be made to represent the perennial interests of political scientists, the meetings should be devoted principally to the issues of war and peace. Finally, (5) there was general agreement that the number of separate meetings should be reduced to avoid the over-division of the membership and to reaffirm the common interests and unity of political scientists as a group. Each chairman is being urged to observe as far as possible the "one-listing" rule, limiting the formal participation of members to a single round table or section meeting, and, in order to encourage spontaneous and wide participation, to keep the formal speeches and papers within reasonable number and length. Some of these principles are departures from program construction for recent meetings. An experiment should enable the Association to settle upon the most appropriate type of program for its future meetings.

With due allowance for the tentative character of topics and of acceptances by those invited to participate in the program, the following round tables and sections may be listed: Monday, December 28: Sections: (1) Administrative Law (leader to be announced); (2) War-time Management of Opinion, Peter H. Odegard, Amherst; (3) Russian-American Relations (leader to be announced); (4) Personnel Administration (leader to be announced jointly with the American Society for Public Administration);

(5) Congress as a Legislative Body—Reports from the Galloway Committee, Columbia Associates, and Committee on Public Administration, Ernest Griffith, Congressional Library. Round tables: (1) Legal and Social Responsibilities of Labor Unions, Alpheus T. Mason, Princeton; (2) The Maintenance of Adequate Armed Services in a Democracy, Grayson L. Kirk, Columbia; (3) Central Control of the Administration of Justice (joint meeting with American Society for Public Administration), J. G. Heinberg, Missouri; (4) The Local Organization of Civilian Defense, J. C. Charlesworth, Pennsylvania.

As a further variation in the program, Tuesday morning, December 29, will be given over to three general sessions, each devoted to a subject of vital interest to a large proportion of the membership: (A) Prospects for the Revival of Liberalism in Europe, (1) Germany, Hans Simon, (2) Italy, H. R. Spencer, (3) France, Walter R. Sharp; P. B. Potter, chairman; (B) Developments in Representative Government in the United States, (1) Lindsay Rogers, (2) George Gallup; Thomas M. Barclay, chairman; (C) Problems of Civic Education in the United States, John M. Gaus, chairman.

Round table meetings will be resumed on Tuesday afternoon as follows: (1) The Treatment of Enemy Aliens in the United States, Marshall E. Dimock, Department of Justice; (2) The International Politics of the Lend-Lease Program (leader to be announced); (3) Problems of the Pacific (leader to be announced); (4) Political Aspects of Fiscal Policy (leader to be announced); (5) Geopolitik Today, Brooks Emeny, Cleveland Council on Foreign Policy. Wednesday morning: (1) Constitutional Law, The Executive and Treaty-Making, Edwin M. Borchard, Yale; (2) Inter-American Affairs, Graham H. Stuart, Stanford; (3) Collaboration of English-Speaking Peoples, J. Duncan Hall, Harvard; (4) International Law, International Recognition of Human Rights, Quincy Wright, Chicago; (5) Political Theory, War and Personal Liberty, Francis G. Wilson, Illinois.

In addition to the meeting for presidential addresses, two other general meetings now planned will be of special interest. The first is a luncheon session scheduled jointly with the Woodrow Wilson Foundation and the American Society for Public Administration to celebrate the birthday of Woodrow Wilson (December 28). A nationally known speaker who prefers not to be announced this far in advance has agreed to address the meeting. A second memorial meeting will focus attention upon the political philosophy of William James (1842–1942), and will center upon the theme, "Pragmatism and its Current Political Implications." Dean George H. Sabine of Cornell and other prominent scholars will speak.

Few breakfast meetings for special groups have been provided in the program. If those who are responsible for such groups would like such meetings scheduled, they should get in touch with the chairman of the program committee as soon as possible.—Harold W. Stoke, *chairman.*

A Committee on Changes in Political Science Courses in Colleges and Universities in War-time, appointed by President Anderson, includes the following: Evron M. Kirkpatrick (University of Minnesota), chairman, Ethan P. Allen (Iowa State University), Rodney L. Mott (Colgate University), Kenneth O. Warner (University of Tennessee), and Francis O. Wilcox (Office of Coördinator of Inter-American Affairs). The committee will prepare a report for the U. S. Office of Education War-time Commission, and will be glad to receive information about curricular changes made in political science departments, or suggestions as to adjustments that should be made.

Professor Hans Kelsen has accepted an appointment as professor of political science at the University of California (Berkeley) for the academic year 1942–43.

Professor Floyd W. Reeves secured part-time release from his duties in Washington in order to teach at the University of Chicago during the summer quarter.

Professor Pitman B. Potter, who in September will assume his new post at Oberlin College, gave courses in international organization and the history of diplomacy at the University of Chicago during the summer quarter.

Dr. Donald H. Webster, director of the Bureau of Governmental Research, University of Washington, is on leave for "the duration" to serve as attorney for the Rationing Division, Office of Price Administration, in Seattle.

At Stanford University, during the summer quarter, Professor Harold S. Quigley, of the University of Minnesota, offered courses in international organization and international relations in the Far East.

Dr. A. B. Butts, chancellor and professor of law at the University of Mississippi, was ordered to active duty as major in the Judge Advocate General's Department, U. S. Army, effective July 1. He has held a commission in the reserve corps for the past ten years.

Professor Edwin A. Cottrell, of Stanford University, served during the past year as president of the San Francisco Bay Area chapter of the Society for Public Administration.

Professor Harvey Walker, of Ohio State University, now a major in the U. S. Army, has been transferred to the position of Finance Officer, 24th Wing, Air Force Ferrying Command, and has left the United States for duties abroad.

Professor William O. Farber has resigned at the University of South Dakota to accept appointment as state price officer for the OPA in South Dakota. His place at the University was filled during the summer by Dr. H. H. Trachsel, of the State University of Iowa.

Professor John W. Masland, of Stanford University, has been appointed to the Division of Research of the Department of State, and Professor Thomas S. Barclay is a member of the Enemy Alien Hearing Board for the Northern California District.

Professor John M. Gaus, of the University of Wisconsin, gave courses at the University of California (Berkeley) during the recent summer session. He will spend the coming academic year at Harvard University upon studies related to the future development of research and instruction at that institution in the field of planning.

At Louisiana State University, Dr. Alden L. Powell has been promoted to a full professorship and Dr. Donald H. Morrison to an assistant professorship. The latter is on leave as an analyst on the staff of the Committee on Records of War Administration in the Bureau of the Budget.

Professor Carl M. Frasure, of the University of West Virginia, has been granted an indefinite leave of absence and has assumed the post of state director of the West Virginia OPA.

Dr. Paul A. Palmer, who during the past year served as acting associate professor at Stanford University, has returned to Kenyon College, where he has been promoted to a full professorship and will head the recently created department of political science.

Dr. R. W. VanWagenen, instructor at Yale University, has been granted leave of absence to serve as instructor in the Field Artillery School of the U. S. Army at Fort Sill, Oklahoma, with the rank of first lieutenant.

Professor Charles Aikin is on leave from the University of California and is serving as state price executive for northern California under the OPA.

Professor Lloyd M. Short, of the University of Minnesota, is serving during the summer months as senior review and negotiations officer on the staff of the Committee on Administrative Personnel of the U. S. Civil Service Commission.

For work primarily in the field of constitutional law, Dr. Joseph P. Pollard has been added to the political science staff at the University of Denver, with the rank of assistant professor.

At the University of Chicago, Mr. Ernest B. Price has taken leave from his duties as director of International House to accept an appointment in the Office of the Coöordinator of Information, and Professor Philip W. Ireland has accepted a consulting appointment with the Board of Economic Warfare for the summer months.

Professor A. N. Christensen, of the University of Minnesota, left early in the summer for a six-month's teaching assignment in Argentina. His visit there is sponsored by the Committee for Inter-American Artistic and Intellectual Relations of the Office of Coördinator of Inter-American Affairs. He will give a course on American government at La Universidad Nacional del Litoral at Santa Fé, Argentina, and will lecture also at other Argentine universities.

Professor James T. Watkins, IV, of Ohio State University, is spending the summer in intensive Chinese language study at Harvard University. He has received a Social Science Research Council training fellowship, likewise for Chinese study, but will not take it up until June, 1943, because of commitments at Ohio State.

At Colorado College, Dr. Edith C. Bramhall has retired and by vote of the board of trustees has been given the title of professor emerita. She plans, when conditions are favorable, to spend a year studying political conditions in Spanish America.

Professor Earl G. Latham, of the University of Minnesota, has accepted a staff position with the new Committee on the History of Administrative Institutions, located in the Administrative Management Division of the Bureau of the Budget. His special project is man-power mobilization.

Mr. Edwin M. Duerbeck is on leave from the Federal Public Housing Authority, having been called to active service as lieutenant in the Navy. He is to spend two months at Quonset Point, R. I., at the Bureau of Aëronautics Officer Training School preparatory to administrative duties in the Bureau.

Professor William Beard has been granted a leave of absence by the University of Wisconsin and is now stationed in California as an instructor in the U.S. Army Air Forces.

Professor Lashley G. Harvey has been granted a leave of absence by the University of New Hampshire and has entered upon aviation duties in the U.S. Navy.

Professor Thorsten V. Kalijarvi, of the University of New Hampshire, has been appointed acting executive director of the New Hampshire State Planning and Development Commission. He will continue part-time teaching.

Dr. George F. Rohrlich, formerly of the Brookings Institution, has been appointed instructor in the division of social studies at Sweet Briar College, Virginia.

A book on the British Commonwealth at war, prepared under the auspices of the Bureau of International Research of Harvard University and Radcliffe College, and edited by William Y. Elliott and H. Duncan Hall, will be published shortly. The editors have contributed a number of the chapters. Mr. Duncan Hall has joined the Secretariat of the British Raw Materials Mission at Washington.

During the first half of the recent summer session at Michigan State College, Professor Harold M. Vinacke, of the University of Cincinnati, gave courses on comparative government and international relations.

Beginning in June, the department of political science at the University of Tennessee has assumed research and service functions for the Tennessee Municipal League.

Dr. William Cargo, of the University of Michigan, has accepted an appointment at Colorado College.

Mr. John D. Hall, recently a graduate student at Syracuse University, has been appointed to an instructorship at the University of Maryland.

Mr. D. Barlow Burke, instructor at the University of Pennsylvania and an assistant district attorney in Philadelphia, has been commissioned a lieutenant in the U. S. Navy and is now in active service.

At the University of Wisconsin, Dr. Lorentz H. Adolfson has been promoted to an assistant professorship in the Extension Division. He will also offer one or two courses in the resident department.

Mark DeWolfe Howe, dean of the Law School of the University of Buffalo, has signed a contract with the Harvard University Press for a biography of the late Justice Oliver Wendell Holmes, which will probably be in two volumes, and is expected to be definitive. Dean Howe edited the *Holmes-Pollock Letters* published a year ago. In writing the biography, he will have access to the great collection of Holmes manuscripts now on deposit in the Harvard Law School Library, and also to various other materials in private hands.

Dr. John D. Millett, formerly with Columbia University and the Committee on Public Administration of the Social Science Research Council, has taken leave of absence from the National Resources Planning Board to enter military service. He has been commissioned a major in the Army of the United States and assigned to Headquarters, Services of Supply, War Department, Washington, D.C., where he will be in charge of keeping a record of the administrative development of the Services of Supply.

In the absence of Dr. A. D. H. Kaplan, from the University of Denver, Dr. Roy E. Brown, chairman of the department of political science, has been made acting director of the department of government management —an establishment receiving an annual grant from the Alfred P. Sloan Foundation and engaged in training ten graduate students in the field of local government. The University has lately organized a Government Center whose function will be to correlate its work in the fields of government and public administration, research, public opinion, public welfare, and planning. It also has received as a gift a building adjacent to the Civic Center which will house the several departments dealing with governmental problems.

At the University of Washington, the Seventh Annual Institute of Government was held between June 23 and June 26. Among other features, Dr. H. B. Hazard, of the Immigration and Naturalization Service, conducted a round table on "War-time Problems Concerning the Alien".

Since July 1, the office of the Committee on Public Administration of the Social Science Research Council has been at 726 Jackson Place, Washington, D. C., instead of 261 Broadway, New York. Messrs. Charles S. Ascher and Patterson French have resigned from the staff of the Committee to accept posts with the national government. As chairman of the committee, Professor William Anderson, of the University of Minnesota, is now in active charge of its work, but will retain residence at the University and give half-time to teaching. Dr. Joseph McLean is in charge of the Washington office as full-time member of the staff.

An Institute of Administrative Management for state agricultural extension directors and supervisors was held in the Center for Continuation Study at the University of Minnesota from July 27 to August 8. Professors William Anderson, C. C. Ludwig, and Lloyd M. Short, of the University, Mr. Louis Brownlow, of the Public Administration Clearing House, Mr. William A. Jump, director of finance of the U. S. Department of Agriculture, and Mr. Gordon R. Clapp, general manager of the Tennessee Valley Authority, served as instructors or lecturers.

Under the chairmanship of Professor Cortez A. M. Ewing, the fifth Institute of International Relations, on "War and Reconstruction," was held at the University of Oklahoma, June 14–20. Among others appearing on the program were Dr. Carl J. Hambro, the Norwegian editor and parliamentarian; Professors Quincy Wright, of the University of Chicago, and Arthur Upgren, of the University of Minnesota; and Dr. Hu Shih, Chinese ambassador to the United States.

At the Fourth Conference of Midwest Political Scientists, held at Spring Mill State Park, Indiana, May 15–17, the following were elected to the Managerial Committee for the coming year: Howard White (chairman), Harold Vinacke, Arthur W. Bromage, Oliver P. Field, Herman H. Trachsel, C. S. Lowrey, William Combs, C. M. Kneier, and Harold Zink. Appointed to the Program Committee were: Llewellyn Pfankuchen (chairman), Charlton Chute, Roy Sherman, John Stoner, Frank Klingberg, and James Milliken. The group decided that the Fifth Conference should be held in May, 1943, if at all feasible.

An Army School of Military Government was opened at Charlottesville, Va., on May 11, using buildings of the University of Virginia, and planned to train officers for future detail in the work of military government. The sixty original students (with more to be added) were selected from all branches of the Army, being engineers or lawyers with special qualifications or persons chosen because of experience in national, state, or local government. Included in the regular faculty are Professors Joseph P. Harris, of the University of California, Arnold Wolfers, of Yale University, and Hugh Borton, of Columbia University; and special lecturers have included Professors Charles C. Hyde and Philip C. Jessup, of Columbia University, Max Lerner, of Williams College, W. Y. Elliott, of Harvard University, and N. J. Spykman, of Yale University.

The Fourth Annual Meeting of the Pennsylvania Political Science and Public Administration Association was held at Harrisburg April 24–26, with Professor C. C. Rohlfing presiding. Dr. Elmer D. Graper, of the University of Pittsburgh, arranged an excellent program opening with a reception for Mrs. Arthur James, wife of the governor, on April 24. Round tables were held on state and local administration, international relations, and political parties. The meetings on political parties were participated in by both the Republican and Democratic state chairmen and by the county chairmen of Philadelphia and Allegheny counties. The Association voted to issue supplements to its published *Bibliography of Pennsylvania State and Local Government*, and to continue publication of its monthly newsletter. Dr. John H. Ferguson, of Pennsylvania State College, and Dr. Dorothy A. Shields, of Pennsylvania College for Women, were elected to the Executive Council.

Jesse Siddall Reeves, professor emeritus at the University of Michigan and president of the American Political Science Association in 1928, died on July 7 after a lingering illness. Called to Michigan in 1910 as chairman of the department of political science, Professor Reeves held that post until 1937. In 1931, he was appointed William W. Cook Professor of American Institutions and continued teaching until his automatic retirement from the faculty last February at the age of seventy. A recognized authority on international law, Professor Reeves on a number of occasions represented the United States as a delegate to conferences in Europe and Latin America. He was an inspiring teacher and was held in great esteem by his colleagues. At a banquet given in his honor upon the occasion of his resignation as chairman of his department in 1937, the following tribute was read: "We, your colleagues, desire to express our deepest appreciation of the services which you have rendered in your position during a period of twenty-six years. Under your inspiring leadership the department has achieved national recognition. Your unswerving devotion to the cause of true scholarship has set a high standard for all of us to follow. In addition, your services to the nation have brought honor and credit to the University and to the department." A more extended memorial will appear in a later issue of the REVIEW.

The many friends of Dr. Harold J. Tobin, professor of political science at Dartmouth College, deeply regret his death on June 17 at the age of forty-eight. He was a graduate of Dartmouth, with a doctor's degree from Columbia and an advanced degree in social science from the University of Lausanne. He twice received Carnegie fellowships in international law and studied at Geneva under a Cutting fellowship from Columbia. At various times he was a member of the American Committee of the League of Nations Association in Geneva, a lecturer and writer for the Foreign Policy Association, and assistant professor at Louisiana State University. He began his short but successful teaching career at Dartmouth in 1933, was co-organizer of a movement to encourage Dartmouth men to enter active political life, and became the first chairman of the American Defense Dartmouth Group in the present war period. He was the author of *The Termination of Multipartite Treaties* (Columbia University Press, 1933), co-author of *Mobilizing Civilian America* (Council on Foreign Relations, 1940), and author of various articles on international relations. During the past two years, he was chairman of the Dartmouth department of political science. Scholarly, energetic, ambitious, and courageous in a long struggle against ill-health, he was highly respected and widely known in the profession and in the Association.

Under a constitutional mandate requiring submission of the question every sixteenth year, the people of Michigan will, in November, vote on the issue of a general revision of their constitution. Late in its last regular session, the legislature passed a bill setting up a study commission, with an appropriation, to determine the desirability of constitutional revision at this time. The measure was vetoed, primarily on the ground of economy. In the autumn of 1941, however, Governor VanWagoner, under authority of a statute enacted in 1931, created a Constitutional Revision Study

Commission modeled after that suggested in the legislative bill, but without an appropriation. Limited funds, nevertheless, were made available, chiefly by certain state departments and institutions of higher learning. The Commission, whose chairman was Justice George E. Bushnell of the state supreme court, was composed of representatives of the state admintrative departments, the legislature, institutions of higher learning, the A. F. of L. and the C. I. O., the state bar association, the farm bureau and grange, industry, women's organizations, religious organizations, and the two major parties. The chairman appointed twelve sub-committees and assigned to each a portion of the existing constitution for study and for recommendation of changes. At its final meeting, on June 23, the Commission recommended by a substantial majority the calling of a constitutional convention this fall. Under provisions of the constitution, a convention cannot actually be assembled, however, until September, 1943, even if a favorable vote is recorded this November. More specifically, the Commission suggested that such a convention consider the following constitutional changes: (1) revision of the searches and seizures section of the bill of rights, and addition of a section giving labor the right to organize; (2) increase of the term of office from two to four years for elective state and local officers, with also increase in pay for legislators and state officials; (3) authorization of the secretary of state to redistrict the state and reapportion members of the legislature, under constitutional regulations; (4) elimination of the uniformity clause in taxation and authorization of a graduated income tax; (5) legislative control over hours of labor, rents, and debt moratoria in times of emergency; (6) home rule for counties, with legislative power to provide for the merger or dissolution of counties and townships and for revamping administrative organization within these units of government; (7) elimination of justice of the peace courts; (8) selection of the state superintendent of instruction by an enlarged elective board of education; and (9) establishment of a commission on elections to supervise and enforce the laws governing state and local elections.—W. H. Combs.

Authorized to continue its inquiry by the Executive Council at the 1941 annual meeting, the American Political Science Association's Committee on Congress has been holding weekly meetings in Washington, D. C., during 1942 to date. These meetings, which are well attended by the members, are customarily held in a private dining room at the Library of Congress, where the chairman has his headquarters. On these occasions, the Committee usually has as its guest some member of Congress with whom legislative problems are informally discussed. Out of these interesting and fruitful discussions, as well as the personal interviews and independent research of the chairman, the Committee is beginning to formulate a statement of the legislative problem, a diagnosis of the difficulties confronting

Congress as an institution and congressmen as individuals, and some preliminary ideas concerning methods of increasing the effectiveness of Congress and enhancing its prestige. Space is lacking here, and it would probably be premature, to indicate the various lines of action that have been suggested to the Committee for its consideration. We will submit a fuller report of our findings and recommendations at the annual meeting of the Association next December. Suffice it to say that we have been examining the changing place of Congress in the American scheme of government, the reasons for its alleged decline, its operation in war-time, its relations with the executive branch, proposed changes in legislative organization and procedure, the development of unforeseen usages, the legislative activities of administrative departments, the staffing of Congress, congressional pressures and chores, etc. The timeliness of this inquiry is attested both by the large amount of attention Congress is currently receiving in the press and in periodicals, as well as among scholars, and by the approach of the congressional elections.—GEORGE B. GALLOWAY, *chairman.*

At a joint conference with the Committee on Government of the Social Science Research Council, held in New York City, April 18–19, the Committee on Research of the American Political Science Association set up and formulated its program of action—the members of the Committee now being Ernest S. Griffith (*chairman*), Robert D. Leigh, Benjamin E. Lippincott, Karl Loewenstein, Walter R. Sharp, and Carl B. Swisher. A proposal to set up panels in various subject-fields constituted the major immediate interest of the Committee. It was also decided to take responsibility for contributing research news and notes to the REVIEW from time to time. The Committee found its deliberations very much dominated by the war and its aftermath. With priorities applying to the time of scholars as well as to raw materials, it was felt that more than usual care needs to be given to the direction of the research efforts of the Association. The war represents a crisis in political institutions. It has thrown into the melting pot many preconceived ideas in political science and may result in a considerable degree of confusion in its subject-matter. Accordingly the Committee felt that the time had arrived for enlisting the efforts of a large number of scholars within the profession in a kind of audit of the whole area which political scientists regard as their own. Such an audit should direct itself to a discovery of the areas where penetrating thought and research are most needed. It may also search for those basic principles in political science which arise out of analyses in special or narrower fields. Such tasks require the combined judgment and activity of all members of the Association. The Committee views its functions as primarily those of helping to organize such combined judgments. The specific procedure adopted at the outset is the creation of panels of scholars in major subject-fields within the broad area of political science. Such fields will not be, and should not be, rigidly drawn. Wherever there is a definite focus of interest, it would seem to be desirable to set up such a panel. Suggestions in this regard will be welcomed by the Committee. Each panel will consist of from ten to twenty-five, selected to include both younger and older members of the profession. The first function of the panel is to formulate a research strategy for its special field. Individual panel members are asked to give this problem their best thought and contribute the results to the secretary of the panel. This report may consist merely of a list of important frontier problems, or it may assume the form of an essay on the present status of scholarship in the field. In any event, the result to be aimed at is the assembling of basic ideas for a subsequent synthesis. What is wanted at this stage is much more than suggestions for thesis subjects. Much of what the Committee hopes to receive from the panel members could better be described as "penetrating thought" than as subjects for specific research. It is our belief that the more general appraisal of this type is one of the best means of giving direction to scholarship. It is planned to circulate the written contributions of the panel members sometime prior to the next annual meeting. It is further planned to have a conference of each panel sometime during the meeting. In all probability, this will be an open session with three or four of the panel members carrying the main burden of the discussion, but with all others participating who are willing and able to do so. Such a discussion should prove attractive to graduate students and others in the field and might prove one of the best means for implementing the work of the panel. At some time subsequent to the annual meeting, the secretary of the panel will prepare a summary or synthesis of the written memos and of the discussion. Such a summary will be circulated among the panel members, and in all probability will find some place for formal publication. The Committee and the panel will then be in a position to work out a program to give effect to its recommendations. For the first year, it seems wise to the Committee to start on a fairly small scale. Four panels only are contemplated at this time. These are: (1) Public Law, Carl B. Swisher, Convener; (2) Political Theory, Benjamin E. Lippincott, Convener; (3) Comparative Government and Politics, Karl Loewenstein, Convener; and (4) The Rôle of America in Post-War International Life, Walter R. Sharp, Convener. Further developments will await the experience of these panels.—ROBERT D. LEIGH.

POLITICAL SCIENTISTS IN THE WAR[*]

The Committee on Personnel Service of the American Political Science Association was charged by the 1941 meeting in New York with the duty of collecting information concerning the participation of political scientists in war work. These data were to be used by the Committee in facilitating the reabsorption of qualified teachers into the profession upon the conclusion of the conflict. It was thought also that they would constitute a partial service record of the profession.

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[*] Compiled under the direction of Major Harvey Walker, chairman of the Committee on Personnel Service.

The extent of participation by political scientists in military activities and in civilian work in connection with national defense is indicated by the paragraphs which follow. In addition to these reports, negative replies have been received by the Committee from forty-four institutions. No doubt there will be many additions to this list, both among the staff members of the institutions included in this report and among those who sent negative replies to the original inquiry. This information is presented as a progress report.

Brooklyn College. Faculty: Gabriel A. Almond, Office of Facts and Figures; Joseph W. Scott, U. S. Navy.

University of California. Faculty: Charles H. Titus, Headquarters, Western Defense Command and Fourth Army, Presidio of San Francisco, Calif. *Ph.D.'s:* Gerald Jordan, Office of Price Administration; Charles Kummer, Placement Officer, War Production Board; Foster Sherwood, War Production Board.

University of Chicago. Faculty: Harold F. Gosnell, Chief, Clearance and Coördination Section, Division of Field Operations, Office of Price Administration; Walter H. C. Laves, Director of Division on Inter-American Activities in the United States, Office of the Coördinator of Inter-American Affairs; Natan C. Leites, Supervising Analyst, Foreign Broadcast Monitoring Service, Federal Communications Commission; Floyd W. Reeves, National Resources Planning Board. *Ph.D.'s:* William B. Ballis (on leave from Ohio State University), Office of Coördinator of Information; Claude E. Hawley (on leave from University of Florida), First Lieutenant, U. S. Army; David B. Truman (on leave from Cornell University), Office of Emergency Management.

University of Cincinnati. Faculty: J. Harold DeNike, Philadelphia Office of Price Administration.

Clark University. Faculty: George H. Blakeslee, Lecturer to various groups in the armed services; Clarence F. Jones, Lecturer at various forts and army posts in the East; Samuel Van Valkenburg, Lecturer at various forts and army posts in the East. *Ph.D.'s:* Paul M. Gregory, Assistant Economist in Economics Division of the Office of Coördinator of Information; Thomas Kinsella, Economist in Office of Price Administration; Theodore F. Marburg, Post-War Division of U. S. Bureau of Labor Statistics; Gerald A. Matchett, Office of Price Administration; Gustav T. Schwenning, Head of Business Division, E.S.M.D.T.

Columbia University. Faculty: William W. Fitzhugh, Jr., Ensign, U. S. Navy; Luther H. Gulick, Office of Organizational Planning, War Production Board. *Ph.D.'s:* Donald Blaisdell, State Department; Robert H. Connery, Lieutenant, Senior grade, U. S. Navy; Patterson H. French, Office of Price Administration; Irving Friedman, Division of Monetary Research, Treasury Department; Kenneth Hechler, Bureau of the Budget; L. Larry Leonard, Division of Monetary Research, Treasury Department; Oliver Lissitzyn, Office of Coördinator of Information; John D. Millett, National Resources Planning Board; Peter Odegard, Treasury Department; Durward V. Sandifer, State Department; James Simsarian, Office of Price Administration; Albert C. F. Westphal, Ensign, U. S. Navy.

Denison University. Faculty: Hugh Kelso, Infantry, U. S. Army.

Fordham University. Faculty: James M. S. Waring, Advisor to Stacy May, Office of Production Management. *Ph.D.'s:* Charles J. Walsh, Commodity Credit Corporation; Charles O'Neil, Chaplain, U. S. Navy.

George Washington University. Faculty: John W. Brewer, 1st Lieutenant, U. S. Army.

Georgetown University. Faculty: William Culbertson, U. S. Army Intelligence; James T. Lowe, Research Staff of Air Corps, U. S. Army; Marlin S. Reichley, R.O.T.C. Unit, Georgetown University.

Harvard University. Faculty: Rupert Emerson, Office of Price Administration; Merle Fainsod, Deputy Administrator, Office of Price Administration; A. Lincoln Gordon, Economic Adviser, Supply, Priorities, and Allocations Board; Bruce C. Hopper, Official position for U. S. Government. *Ph.D.'s:* Oliver Garceau, U. S. Navy; George Pettee, Office of Production Management; Roland Yound, Clerk, Senate Committee on Foreign Relations.

University of Hawaii. Faculty: William E. Williamson, Federal Bureau of Investigation, Honolulu.

Howard University. Faculty: Vincent Browne, Infantry, U. S. Army, Fort Huachuca, Arizona; R. J. Bunche, Senior Social Science Analyst, Office of Strategic Services.

University of Illinois. Faculty: Valentine Jobst, U. S. Army Air Corps, Miami Beach; *Ph.D.'s:* Leon Weaver, Civilian Personnel Field Officer, Sacramento Air Depot, McClennan Field, Calif.

University of Kentucky. Faculty: Ernest Collins, Inspector of Ordnance, Civil Service Commission, Cincinnati Office; John W. Manning, Personnel Division, Adjutant General's Office, War Department; E. G. Trimble, Special Examiner, Fair Employment Practices Committee; Amry Vandenbosch, Deputy Chief of Division of Special Information on the Low Countries and Their Possessions, Office of Coördinator of Information.

Louisiana State University. Faculty: Charles S. Hyneman, Consultant in Division of Administrative Management in Bureau of the Budget.

University of Louisville. Faculty: Kenneth P. Vinsel, Assistant to Executive Secretary of War Production Board; Francis O. Wilcox, Office of Coördinator of Inter-American Affairs.

University of Maryland. Howard M. Kline, Bureau of the Census.

University of Michigan. Faculty: Joseph R. Hayden, Board of Analysts, Office of Coördinator of Information; Lawrence Preuss, Principal Divisional Assistant, Department of State; H. J. Heneman, Military Intelligence Division, War Department.

University of Minnesota. Faculty: Marver Bernstein, Office of Civilian Defense in Office of Emergency Management; Asher N. Christensen, in Argentina, June–December, 1942, under auspices of Coördinator of Inter-American Affairs and Committee on Inter-American Artistic and Cultural Relations to lecture at the University of the Litoral and study Latin-American government and social security laws; Ivan Hinderaker, Bureau of the Budget; Earl G. Latham, Committee on Records of War-time Administration, Bureau of the Budget; Harold S. Quigley, part-time with Coördinator of Information; Lloyd M. Short, Committee on Administrative Personnel, U. S. Civil Service Commission; Donald Smithburg, Office of Facts and Figures.

University of New Hampshire. Faculty: Thorsten V. Kalijarvi, Chairman of Air Raid Wardens Division of the State of New Hampshire.

University of North Carolina. Faculty: James W. Fesler, Analyst Assistant to Executive Secretary of War Production Board.

Northwestern University. Faculty: George C. S. Benson, Director of Administrative Division in Office of Price Administration; Earl H. DeLong, special assistant to U. S. Civil Service Commission; William M. McGovern, Intelligence Division of Department of the Navy, assigned to Combined Chiefs of Staff Office.

Ohio State University. Faculty: Howard L. Hamilton, Director of Academic Training, Navy Ground Course, U. S. Navy, University of North Carolina; Harvey Walker, Finance Officer, 24th Wing, Air Force Ferrying Command.

University of Oregon. Faculty: Herman Kehrli, Bureau of the Budget.

University of Pennsylvania. Faculty: D. Barlow Burke, U. S. Navy Philadelphia; William P. Maddox, Assistant to President of Foreign Policy Association, Consultant to State Department; Jewel C. Phillips, Pennsylvania State Public Service Supervisor, Federal Works Agency, Philadelphia; Bennett M. Rich, Provost Marshal's Office, U. S. Army; Irving Segal, Price Attorney, Office of Price Administration, Philadelphia. *Ph.D.'s:* Jean R. Brownlee, Representative, U. S. Civil Service Commission, Philadelphia; Claude A. Buss, Special Adviser to High Commissioner, Manila, Philippine Islands; Leon W. Godshall, Lecturer on the Far East, U. S. Army, Bethlehem, Pa.; Joseph M. Jones, U. S. Tariff Commission; Warren H. Kelchner, State Department; Frances L. Reinhold, Research Specialist, War Production Board; Louise M. Rutherford, Deputy Attorney-General, Commonwealth of Pennsylvania; Audley H. Stephan, U. S. Army Signal Corps.

Princeton University. Faculty: William S. Carpenter, part time with New Jersey Defense Council; Paul T. Stafford, Lieutenant, U. S. Navy; George A. Graham, Bureau of the Budget; Donald S. Bussey, Office of Facts and Figures; John F. Sly, Regional Price Administrator, Office of Price Administration; Bruce H. French, Ensign, U. S. Navy; William A. Mitchell, Second Lieutenant, U. S. Army; Robert B. Dishman, U. S. Navy, V-7 Class; Adam C. Breckinridge, Ensign, U. S. Navy; Francis J. Paschal, Ensign, U. S. Navy; Clinton L. Rossiter, U. S. Navy, V-7 Class.

Queens College. Faculty: Norton Long, Division of Rent Control, Office of Price Administration.

University of Southern California. Faculty: John McDiarmid, U. S. Civil Service Commission. *Ph.D.'s:* Charles E. Piper, Federal Bureau of Investigation, Washington, D. C.; Harry Silke, Office of Price Administration, Los Angeles, Calif.

Stanford University. Faculty: Thomas S. Barclay, member of Enemy Alien Hearing Board for the Northern District of California; Charles Fairman, Office of Judge Advocate General, Washington, D.C. *Ph.D.'s:* Philip H. Taylor, Army Intelligence, War Department, Washington, D.C.

Syracuse University. Robert Grove, Statistical Division, U. S. Civil Service Commission; Sam Marble, Division of Civilian Supplies, War Production Board; John Russell, Liaison Officer, Office of Civilian Defense, Washington, D.C.

Temple University. W. Brooke Graves, Recruiting Specialist, Third U. S. Civil Service District, Philadelphia.

University of Texas. Faculty: H. Malcolm Macdonald, Ensign, U. S. Navy; Emmette S. Redford, Regional Price Executive, Office of Price Administration, Dallas, Tex.

University of Toledo. Faculty: Harold Towe, Field Artillery, U. S. Army.

University of Tulsa. Faculty: O. W. Hoop, War Department, Washington, D.C.

University of Virginia. Faculty: Henry Cumming, Intelligence Division, U. S. Army, Washington, D.C.; Robert K. Gooch, Chief of Section on Western Europe in Office of Coördinator of Information. *Ph.D.'s:* Edward S. Overman, Ensign, Intelligence Division, U. S. Navy.

University of Washington. Ph.D.'s: Paul Dull, Specialist on Far Eastern Politics, U. S. Navy; Harry Johnstone, Specialist on Public Administration and Constitutional Law, War Department.

Wayne University. Faculty: Bryan Rust, Non-Flight Captain in Royal Canadian Air Force.

University of Wisconsin. Edwin E. Witte, part-time with War Labor

Board; Llewellyn Pfankuchen, Division of Special Research, U. S. Department of State; William Beard, instructor at Santa Ana (Calif.) Army Air Base. *Ph.D.'s:* Frederic E. Merwin, Assistant Chief, Division of Information Channels, Bureau of Intelligence, Office of Facts and Figures; Ralph O. Nafziger, Chief, Division of Information Channels, Bureau of Intelligence, Office of Facts and Figures; Charles F. Spencer, Naval Aviation Cadet Selection Board, New Orleans, La.; Egbert S. Wengert, Administrative Officer of Staff of Regional Price Coördinator, Office of Price Administration.

Yale University. Faculty: Robert Blum, Western European Division of Office of Coördinator of Information; William G. Fletcher, Consultant in Special Planning Division of Office of Coördinator of Inter-American Affairs; Harvey C. Mansfield, Administrative Officer of Consumers' Durable Goods Division of Office of Price Administration; R. W. Van Wagenen, instructor at Field Artillery Training School, Fort Sill, Okla.; Arnold Wolfers, Special Adviser and Lecturer at Army School of Military Government, Charlottesville, Va. *Ph.D.'s:* Fred V. Cahill, Private, U. S. Army; C. S. Campbell, Jr.; State Department; Robert A. Dahl, Officer in United States Naval Reserves; W. J. A. Feuerlein, with Board of Economic Warfare; J. F. Green, with Coördinator of Information; C. Dwight Waldo, with Retail Trade and Services Division of Office of Price Administration.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES[1]

COMPILED BY LLEWELLYN PFANKUCHEN[2]
University of Wisconsin

POLITICAL PHILOSOPHY AND PSYCHOLOGY

Ulrich Stephen Allers; A.B., Catholic University, 1939; A.M., *ibid.*, 1941. The Development of the Ideology of the Holy Roman Empire. *Catholic University.*

William M. Barr; Litt.B., Rutgers, 1928; A.M. Columbia, 1936. The Philosophy of Woodrow Wilson. *Columbia.*

Dorothy Borg; A.M., Columbia, 1931. American-Chinese Relations, 1922–1928. *Columbia.*

Aldemar Hora Dantas de Brito; B. in Jur. and Soc. Sc., Bahia (Brazil), 1935. The Philosophy of International Law. *Catholic University.*

Julia Helen Chen; A.B., Hwa Nan College, China, 1928; A.M. American, 1937. The History and the Divisions of the Chinese Press in the United States. *American.*

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[1] Similar lists have been printed in the REVIEW as follows: V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925); XX, 660 (1926); XXI, 645 (1927); XXII, 736 (1928); XXIII, 795 (1929); XXIV, 799 (1930); XXV, 798 (1931); XXVI, 769 (1932); XXVII, 680 (1933); XXVIII, 766 (1934); XXIX, 713 (1935); XXX, 811 (1936); XXXI, 772 (1937); XXXII, 796 (1938); XXXIII, 732 (1939); XXXIV, 767 (1940); XXXV, 752 (1941).

Items which appeared in the August, 1941, list are in general classified under the same headings in the present list, and new items have been assimilated to the 1941 classification as far as possible. In cases where classification of an item has been suggested by the institution concerned, the suggestion has been followed. It is believed that each item is listed under one classification only. Names starred are carried over from the 1941 list, no more recent data having been received.

The lists printed in the REVIEW are based on information from departments giving graduate instruction in political science. Often dissertations are in progress in departments of economics, history, sociology, etc., which overlap or supplement dissertations in preparation in political science. Attention is called especially to the following lists: "Check List of Current Researches in Public Administration Reported to the Committee on Public Administration, Social Science Research Council" (mimeographed, most recent edition, December, 1941); "Doctoral Dissertations in Political Economy in Progress in American Colleges and Universities," in the *American Economic Review;* "List of Doctoral Dissertations in History Now in Progress," formerly published by the Division of Historical Research, Carnegie Institution of Washington, but since the 1938 issue as a Supplement to the *American Historical Review;* and "Higher Degrees in Sociology," in the *American Journal of Sociology.* Usually one list is published each year. These are in addition to the "List of American Doctoral Dissertations Printed in 1938," the most recent of an annual series published by the Library of Congress; and Edward A. Henry's "Doctoral Dissertations Accepted by American Universities, 1940–1941," the eighth of a series beginning in 1933–34, compiled for the Association of Research Libraries.

[2] With the assistance of Mrs. Emily Blenis Williams, hereby gratefully acknowledged.

Richard Eugene Curl; A.B., Ohio State, 1939; A.M., *ibid.*, 1940. The Impact of War on Government Publicity. *Princeton.*

Jack G. Day; B.S., Ohio State; LL.B., *ibid.;* A.M., *ibid.* The Influence of Roscoe Pound on American Jurisprudence. *Ohio State.*

Karl Wolfgang Deutsch; Dr. of Law and Political Science, Prague, 1938. The Economic Factor in Nationalism: A Technique of Enquiry Applied to Some Successors of Central Europe. *Harvard.*

Emmet E. Dorsey; A.B., Oberlin, 1927; A.M., Columbia, 1932. A Critique of Negro Political Leadership: A Series of Social Biographies. *Columbia.*

Harold L. Elstien; A.B., Syracuse, 1934. Democratic Tolerance of Anti-Democratic Organization. *Chicago.*

J. Eldon Fields; A.B., Kansas, 1934. Neo-Marxian Theories of War and Peace. *Stanford.*

Gisbert Henry Flanz; Free School of Political Science, Prague, 1936; Dipl. Sc. Pol., *ibid.*, 1939. The Doctrine of the Separation of Powers; An Historical and Analytical Study in Political Theory and Comparative Constitutional Law. *Princeton.*

Stephen S. Goodspeed; A.B., California, 1936. The Attitudes of Special Interest Groups Toward Germany, 1933–1939; A Study in Public Opinion. *California.*

Andrew Gyorgy; A.B., Budapest, 1938; J. D., *ibid.*, 1939; A.M., California, 1939. Geopolitics: the Totalitarian Science. *U. C. L. A.*

Helen V. Hammarberg; A.B., California, 1936; A.M., Columbia, 1938. The Theory of an American Legal and Political System. *California.*

Martin Joseph Hillenbrand; A.B., Dayton, 1937; A.M., Columbia, 1938. An Analysis of the Concept of Obligation. *Columbia.*

**Byron Marshall Holmes;* A.B., U. C. L. A., 1934; A.M., California, 1939. Political Nativism. *Southern California.*

John Bockover Johnson; A.B., Williams, 1934. A Physical Science Approach to the Problem of Text-Writing in the Social Sciences. *Chicago.*

Edgar Kemler; A.B., Johns Hopkins, 1936. The Deflation of American Ideals: A Study of the Response of Traditional Progressivism to the Conditions of the Fascist Era. *Harvard.*

Mary Helena Kirsten; A.B., Wisconsin, 1935. The Political Columnists. *Chicago.*

Eugene E. Koch; A.B., Pittsburgh, 1932; A.M., *ibid.*, 1935. Political Philosophy of John Selden. *Pittsburgh.*

Bernard Kronick; A.B., California, 1937. Recent American Conservative Thought, 1920–1942. *California.*

Thomas B. Larson; A.B., Nebraska, 1937; A.M., Chicago, 1938. A History of Ideas Concerning Legislatures and Representation. *Columbia.*

Luther J. Lee, Jr.; A.B., Pomona, 1933. Political Significance of Reconstruction for American Nationalism after the Civil War; A Study in American Political Thought. *California.*

Herbert McClosky; A.B., University of Newark, 1940. The Will of the Minority. *Minnesota.*

Milton R. Merrill; B.S., Utah State College, 1925; A.M., Columbia, 1932. The Public Career of Reed Smoot. *Columbia.*

Raymond B. Nixon; Ph.B., Emory University, 1925; A.M., Wisconsin, 1934. Henry Woodfin Grady: "Journalistic Leader in Public Affairs." *Minnesota.*

Louis T. Olom; A.B., Chicago, 1937. The Study of Political Leadership. *Chicago.*

William Broderick Pendergast; A.B., Notre Dame, 1937; A.M., *ibid.*, 1938; $1^{ière}$ Licence en Sciences Politiques et Sociales, Louvain (Belgium), 1939. American Ideas on the Limits of the Authority of Government. *Chicago.*

David Spitz; B.S.S., C. C. N. Y., 1937; A.M., Columbia, 1939. Ideas in Transition; A Comparative Study of the Impact of Totalitarianism and War upon a Selected Group of Political Thinkers. *Columbia.*

James Benjamin Stalvey; A.B., Duke, 1930; A.M., *ibid.*, 1931. The Political Philosophy of Daniel DeLeon: A Study in Early American Socialism. *Illinois.*

Robert L. Stern; A.B., New York State College for Teachers, 1935. Study of Predictions of Newspaper Columnists in the Newspapers of 1934. *Syracuse.*

Johan C. TeVelde; A.B., Calvin, 1934; A.M. Iowa, 1935. The Political Science of John Dewey. *Chicago.*

M. Henry Wells; A.B., Illinois, 1937; A.M., Louisiana State, 1939. Recent American Critics of Democracy. *Yale.*

John Higgins Williams; A.B., Washington and Lee, 1924; A.M., *ibid.*, 1928. The Rise and Decline of the Compact Theory in the United States. *North Carolina.*

GOVERNMENT AND POLITICS OF THE UNITED STATES AND ITS DEPENDENCIES

Paul H. Anderson; A.B. Notre Dame, 1938; A.M., *ibid.*, 1939. The Attitude of the American Leftists toward the Russian Revolution and the Bolshevik Government from 1917 to 1923. *Notre Dame.*

Totton James Anderson; A.B., California, 1930; A.M., *ibid.*, 1931. The Presidential Speech as an Instrument of Foreign Policy. *Southern California.*

Benjamin Baker; B.S., C. C. N. Y., 1935; A.M., Columbia, 1940. The Packers and Stockyards Act. *Columbia.*

Hillman M. Bishop; A.B., Columbia, 1926. Rhode Island and the Federal Constitution. *Columbia.*

Helen R. Brooks; A.B., Radcliffe, 1934; Ed.M., Harvard, 1936. The Apportionment Rule of the United States Civil Service. *Radcliffe.*

William D. Carey; A.B., Columbia, 1940; A.M., *ibid.*, 1941. A Study in War-time Federalism. *Columbia.*

Lawrence H. Chamberlain; B.S., Idaho, 1930; A.M., *ibid.*, 1932. Sources of Recent Major Legislation. *Columbia.*

Asher N. Christensen; A.B., Minnesota, 1924. A Study of the Legislative Settlement of Contested Election Cases. *Minnesota.*

Robert Lewis Clark; A.B., Lincoln, 1937; A.M., Illinois, 1938. An Examination of Congressional Draft Legislation—With Special Reference to the 1940 Selective Service Act. *Illinois.*

Wesley C. Clark; A.B., Marietta, 1930; A.M., Pennsylvania, 1938. The Effects of Economic Changes on a President's Popularity. *Pennsylvania.*

Bernice Dietz; A.B., Washington, 1930; A.M., *ibid.*, 1937. The Foreign Policy of Robert Lansing. *Washington (Seattle).*

Marvin Downey; A.B., Virginia, 1931; A.M., *ibid.*, 1934. The Committee on Rules of the United States House of Representatives. *Chicago.*

David Gregg Farrelly; B.S., Springfield College, 1937; A.M., Pittsburgh, 1940. The Senate Judiciary Committee. *Princeton.*

LeRoy Craig Ferguson; A.B., Miami, 1937; A.M., Ohio State, 1939. The Quakers in American Politics. *Ohio State.*

Pierre Ghent; B.E., Johns Hopkins, 1923. National Resources Programs and Distressed Communities. *American.*

Hilton P. Goss; A.B., Harvard, 1926. The Presidential Campaign of 1912. *California.*

Thomas J. Graves; A.B., University of Newark, 1937; A.M., University of New York, 1939. Federal-State Coöperation in World War II. *Princeton.*

Morton M. Grodzins; A.B., Louisville, 1940; A.M., *ibid.*, 1941. Japanese Evacuation on the West Coast: A Study of Pressure Group Activity, Intergovernmental Organization, and Constitutional Problems. *California.*

Wayne Clayton Grover; A.B., Utah, 1935; A.M., American, 1937. Some Aspects of the Civil Governance of American Military Forces, with Special Reference to the Army. *American.*

John D. Hall; A.B., Union, 1936; A.M., Syracuse, 1938. The Administration of U. S. Territories and Island Possessions. *Syracuse.*

Rufus G. Hall, Jr.; A.B., Texas, 1933; A.M., *ibid.*, 1935. American Imperialism in the Caribbean during the Taft-Knox Administration. *Harvard.*

Earl T. Hanson; Ed.B., Southern Illinois State Teachers College, 1933; A.M., Illinois, 1937. Special Groups in Congress. *Illinois.*

Wiley Edward Hodges; B.S., Roanoke, 1926; A.M., Duke, 1930. The Trend of Laissez-faire in Virginia from the Colonial Period to 1832. *Duke.*

Byron Marshall Holmes; A.B., U. C. L. A., 1934; A.M., California, 1939. Political Nativism. *Southern California.*

Sam. M. Houston; A.B., Iowa State Teachers College, 1925; A.M. Iowa, 1930, T.V.A.: A Study in Policy Formation. *Iowa.*

Howard K. Hyde; A.B., Fletcher, 1934; A.M. Chicago, 1935. The American Telephone and Telegraph Company; A Study in Large-Scale Organization. *Chicago.*

Thomas P. Jenkins; A.B., Lawrence College, 1937; A.M., Michigan, 1939. Organized Groups and Governmental Positivism in the United States since 1929. *Michigan.*

Alexander F. Kiefer; A.B., Columbia, 1937; A.M., *ibid.*, 1938. Financial and Trade Measures as Implements in American Foreign Policy. *Columbia.*

Merle Kling; A.B., Washington, 1940; A.M., *ibid.*, 1941. Missouri's Attitude on Foreign Policies as Expressed by her Congressmen. *Washington (St. Louis).*

Jack Franklin Leach; A.B., California, 1937. The Law, Theory, and Practical Politics of National Conscription in the United States, with Comparisons Drawn from National Experience with Conscription Elsewhere. *California.*

Jerome Machlin; B.S.S., C. C. N. Y., 1935. A Study in Protest Politics. *Syracuse.*

Edwin M. Martin; A.B., Northwestern, 1929. Influence of Organized Economic Groups on Federal Tax and Tariff Legislation from 1921 to 1933. *Northwestern.*

F. Graham Matheson; B.S., Princeton, 1939; A.M., Pennsylvania, 1938. Political Geography of Puerto Rico. *Clark.*

Willard C. Matthias; A.B., Iowa, 1936; A.M., Minnesota, 1938. The Formation of Labor Policy under the New Deal. *Harvard.*

Sister M. Annunciata Merrick, R.S.M.; A.B., Catholic University, 1920; A.M., Notre Dame, 1925. Theodore Roosevelt and Practical Democracy, with Particular Reference to the Anthracite Coal Strike of 1902. *Notre Dame.*

Walden Moore; A.B., Harvard, 1922. The American Navy Bill of 1916. *Columbia.*

Paul D. Mulkey; B.Ed., Southern Illinois Normal, 1935; A.M., Illinois, 1936. Congressional Investigation of Subversive Activities. *Illinois.*

Bro. August Raymond Ogden, F.S.C.; A.B., Manhattan, 1935; A.M., St. Mary's University (San Antonio, Tex.), 1939. Special House Committee for the Investigation of Un-American Activities. *Catholic University.*

Charles G. Padelford; A.B., Washington, 1937. The Foreign Policy of Secretary Stimson. *Washington (Seattle).*

Wallace J. Parks; A.B., Williams, 1932; LL.B., George Washington, 1937. Federal Import Control. *Columbia.*

A. Edward Patmos; A.B., N. Y. U., 1935; A.M., *ibid.*, 1936. Some Recent Attempts of Non-Political Organizations to Influence Federal Legislation. *New York University.*

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BOOK REVIEWS AND NOTICES

The Crisis of Our Age. BY PITIRIM SOROKIN. (New York: E. P. Dutton and Company. 1941. Pp. 338. $3.50.)

Pitirim Sorokin presents here in snappier and more palatable form the argument of his four-volume work, *Social and Cultural Dynamics*. He gives us his philosophy of history, analyzes the present world crisis in terms of it, and prescribes the way in which the crisis can be met.

His theory of history is a cyclical one, with three main cultural forms —"sensate," "ideational," and "idealistic"—succeeding each other after a rough fashion. In the first, the highest reality is sensory. In the second, it lies in the super-sensory and super-rational. In the third, the super-sensory and the super-rational combine with the "noblest" elements of the rational and sensory to blend into "one unity, that of the infinite manifold, God." The succession of cultural forms is in a dialectical pattern. The sensate culture breeds its opposite, the ideational, and the idealistic synthesizes the best elements of each. There is no definite time span for the life history of a culture. It starts to die when it ceases to be creative. Its death is accompanied by crises, war, revolution, and chaos during which the new culture or cultural phase struggles to be born.

Sorokin's philosophy of history serves as the instrument for an extensive analysis of the aspects of our own present sensate culture—our arts, philosophy, religion, institutions. He sees the present crisis as the death agony of a sensate culture which has run its course and is due to be succeeded by an ideational or idealistic phase. Capitalism or socialism, democracy or totalitarianism, do not from Sorokin's point of view represent real choices. They are the surface symptoms of cultural disintegration.

What shall we say about this scheme? In the first place, it is open to the objection that applies to all schematizers. Charles A. Beard has pointed out about Spengler that "millions of scattered fragments can be forced into the Spenglerian picture, but millions of other fragments can be forced into an equally contradictory hypothesis by a mind equally powerful." Despite Sorokin's phony detachment from the problems of today, it is hard not to take so intricate a system seriously. All the paraphernalia of scientism—the charts and tables showing the relative amounts of sensate and super-sensate art and philosophy in a given culture—have a certain soporific effect on the intellect.

And yet there is a basic evasiveness in the whole volume—an evasiveness as to the ends of social effort. The purpose of understanding history and society is clearly to control and order both. Yet the only rôle that Sorokin assigns to us is that of prolonging or shortening, by our resistance or by our acceptance, the length of a cultural phase. Beyond this, no attempt to shape the future can be successful. The victory or defeat of the fascist forces in our era is of only trivial relevance, since neither victory nor defeat will arrest or prevent the disintegration of our sensate culture. Our best policy is presumably to relax, to accept the inevitable, to do what we can to hasten the change and shorten the period of conflict. The blurb describes the book as "a challenge to the wave of pessimism" that has swept the world today. So far as I can see, the challenge consists in a promise that no matter what the trials of our age, plant and animal life will not perish from this earth.

Sorokin seems to belong in the tradition of Machiavelli, Vico, Spengler, and Toynbee. Yet for all the massive volume of his work, he must be rated as one of the *epigoni* in that tradition. In his passion for schematizing, he has lost track of social complexities. The actual moral values of our time manage to slip through the crevices of his ethical grandeur and get lost. He tells us that the minor strains of our sensate society—its secondary idealistic and ideational activities which have not been integrated in the dominant pattern of our dying society—will survive us. This is either an unbased faith or a far-reaching evasion. Actually a violent disruption of a society as complex as ours may destroy not only the cultural values associated with a sensate culture, but the more abiding values as well upon which a future society would have to build. I am reminded of the Low cartoon, showing a sinking row-boat with one man bailing busily in the stern while two others, very aloof, look on from the bow. Even granted Sorokin's single-plane classification of cultures, over-formal and over-moralistic as it is, there are still immense differences between various types of a sensate culture. This is a fallacy of the categories into which both the mechanical logicians and the mechanical moralists tend to fall. In speaking of the aridity of those who concern themselves with the forms of life rather than its substance, Mr. Justice Holmes once said that no amount of cogitation over a pot will ever give you the beer. A man whose analysis of cultural forms is too blunt to find any appreciable differences between the humanism of democracy and the barbarism of the fascists is not a prophet for me.

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What Democracy Meant to the Greeks. BY WALTER R. AGARD. (Chapel Hill, N. C.: University of North Carolina Press. 1942. Pp. xii, 278. $3.00.)

The purpose and subject-matter of this book are not at all what a reader might expect from its title. The Greek equivalent of the word "democracy" was continuously in use by Greek authors who had occasion to write about politics. Among these Greek authors, the philosophers at least tried to use terms of this sort in fairly exact senses. They tried to discover a meaning for democracy and like terms which would be in accord with Greek practice. Aristotle, in particular, distinguished many varieties of democracy, as he did also of monarchy and oligarchy, and he showed how those variations in political institutions were related to differences of social and economic conditions and also how the deliberative, executive, and judicial organs of the city-states were modified to make them conform more or less to the democratic type. All this might naturally be taken as included in "what democracy meant to the Greeks." In fact, however, Mr. Agard scarcely touches upon the precise usage of the Greek word "democracy." He is more concerned with the connotations of our present English word, and this present usage is not in fact very old, even in English. It would have surprised and confused most signers of our Declaration of Independence if they had been told that any government which respects the essential human rights of its subjects and allows free discussion is a democracy.

Mr. Agard's subject is really the human values which we now associate with the word democracy and the extent to which these values were sought and realized in the Greek city-state, and more particularly in Athens in the Age of Pericles. In general, his book covers about the same ground as A. E. Zimmern's *Greek Commonwealth*, but with less attention to the description and the history of Athenian political institutions. He is concerned, that is to say, more exclusively with ideals and values. He attempts, however, to measure the success and the failure of the Athenians in realizing their ideals, and he has chapters on the criticism of Athenian democracy by the Old Oligarch, by Aristophanes, and by Plato and Aristotle. As is practically inevitable, the texts for his account of Athenian ideals are drawn from the Funeral Oration which Thucydides attributes to Pericles in the second book of his *History*. In addition, however, he covers in the course of the book a wide range of Greek drama and art and poetry. The best quality of the book grows from the author's deep and sympathetic enthusiasm for the ideals of Greek humanism which, as everybody would agree, have formed the permanent foundation of European culture.

Nevertheless, it is possible to doubt whether these values were as intimately related to Athenian democracy as Mr. Agard supposes. When he credits Athenian government with "creating within the city a culture of the first order" (p. 75), it is hard to avoid the suspicion that no government can really do so much. After all, there was great art and great intellectual achievement in other Greek cities and not always in democracies, and though Athenian achievement was preëminent, it need not have been due wholly to Athenian government. Moreover, it is almost inevitable that Mr. Agard's mode of presentation, which separates the achievements of the democracy from its criticism, produces a more roseate picture of Athenian government than the facts warrant. It may be true that the modern world might learn most of the ideals of political freedom from the Greeks, but unfortunately it could learn most of the methods of political corruption in the same school. There is surely a measure of euphemism in saying that Pericles' program of public works "put the money of the city at the service of the people who needed it most" (p. 65)—the money being in fact mostly the property of the League—just as it is a little euphemistic to say that Pericles "married" Aspasia.

In fairness, it should be said that Mr. Agard seriously intends to present the bad as well as the good. In sum, his indictment of the deficiencies of Greek democracy is pretty formidable. It never included women or foreigners or slaves. It endured hardly a century. Athenian imperialism was both cynical and short-sighted in the oppression of its allies and subject-states. It never succeeded in including enough of the Greek world to bring security against either the internecine wars between the city-states or against outside aggression. All this is said, but somehow the criticism never actually confronts the glorification of the democracy.

In one major respect, however, I believe that Mr. Agard's account of political ideals is historically unsound. The ideal of political equality in any inclusive sense was not, I think, included among the ideals of the city-state; it was the creation, not of the classical, but of the Hellenistic age. It seems to me to be profoundly misleading to say that to the Athenians the word "barbarians" "meant little more than foreigners" (p. 155), especially when the word was used with a political connotation. Aristotle certainly believed that barbarians are "slaves by nature" and that despotic government is wholly suitable for them. Without the technical terminology, Herodotus seems to me to feel exactly the same way about them, and this is in no way mitigated by his interest in their curious customs. A. J. Carlyle was surely right when he pointed out that there is a whole world of difference between the ideals of the city-state and the assertion of human equality in Cicero's *Laws*. And W. W. Tarn was equally right when he suggested that Alexander's ideal of *homonoia* opened a new phase both of individualism and internationalism. The view that sees in Stoicism only a "noble escapism" (p. 250) is a typical case of the classicist's fallacy —the illusion that important ideas occur only in an inspiring literary form.

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Sociology of Law. BY GEORGES GURVITCH. (New York: Philosophical Library and Alliance Book Corporation. 1942. Pp. xx, 309. $3.75.)

In the present century, many developments in the social sciences have tended to break down the compartmental barriers which did so much to keep them apart during the nineteenth century. In the field of sociology, this development has given rise to an attempt to effect a better understanding of what we call "law," and of what lies behind the phenomena of the legal order as these phenomena appear to the legalist. In Europe, as Dean Roscoe Pound points out in his valuable preface, this movement has brought forth a branch of sociology calling itself sociology of law. In this country, it has produced a sociological jurisprudence which has done much to reshape the methods and purposes of our legal system in recent years. Here the emphasis has been upon jurisprudence, as a special science of law, with reference to the adjustment of relations and ordering of conduct involved in group life. In Europe, the emphasis has been on sociology as a general science of society with reference to the phenomena of group life as it involves law. The author of this book has been concerned with this latter aspect of the problem for over twenty years. While serving as professor of sociology and ethics at the University of Strasbourg (France), he organized the International Institute of Philosophy and Sociology of Law (Paris) and founded and became editor-in-chief of the *Review of Sociology of Law,* the pioneer journal in this field. He is now in this country, where his activities will undoubtedly stimulate more extensive interest in this area. In the present book he attempts a comprehensive survey of the work already done in Europe and America in the sociology of law, and an outline of the work remaining to be done.

Defining the sociology of law as "that part of the sociology of the human spirit which studies the full social reality of law, beginning with its tangible and externally observable expressions, in effective collective behaviors (crystallized organizations, customary practices, and traditions or behavioral innovations) and in the material basis (the spatial structure and demographic density of jural institutions)," he states that "the sociology of law interprets these behaviors and material manifestations of law according to the internal meanings which, while inspiring and penetrating them, are at the same time in part transformed by them." Moving directly from "jural symbolic patterns fixed in advance, such as organized law, procedures, and sanctions, to jural symbols proper, such as flexible rules and spontaneous law, "it proceeds," he says, "to jural values and ideas which they express, and finally to the collective beliefs and institutions which aspire to these values and grasp these ideas, and which manifest themselves in spontaneous (normative facts) sources of the validity, that is to say, of the positivity of all law." A jurisprudence, or "dogma of the positive law," he asserts, can only establish a "coherent system of normative patterns and symbols . . . valid for the experience of a particular group at a particular period." But legal sociology envisages "the quasi-infinite variety of experiences of all societies and all groups, describing the concrete contents of each type of experience (to the extent that they are expressed in phenomena externally observable), and revealing the full reality of law which patterns and symbols veil more than they express."

In the order set forth, Professor Gurvitch considers: (1) the object and problems of the sociology of law; (2) the forerunners and founders of the sociology of law; (3) systematic sociology of law, including what he calls the microsociology of law; (4) differential sociology of law, including the jural typology of particular groupings and the legal typology of all inclusive societies; (5) genetic sociology of law; and (6) sociology of law and philosophy of law. Any project such as this, which attempts to define the precise framework of a new discipline, including its objects, methods, and problems, necessarily requires not only a wide scholarship, but great skill in synthesis as well as analysis. Professor Gurvitch certainly demonstrates a wide familiarity with the work which has been done in Europe and America, in both sociology and jurisprudence, as he evaluates their relationship to the sociology of law. This effort, with its promise of more to come, should tend to stimulate the interest of American scholars in this previously neglected area. This is in itself a useful and enriching service, and suggests the benefits which will undoubtedly result from the presence of other able European scholars on our shores.

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The Growth of American Constitutional Law. BY BENJAMIN F. WRIGHT. (New York: Published for Reynal and Hitchcock by Houghton Mifflin Company. 1942. Pp. viii, 276. $2.25.)

This concise and important book should earn the gratitude of every student of American constitutional law and political theory. In 260 pages, it surveys the vast literature of the constitutional policy of the Supreme Court, really under great rubrics of political theory—popular government and the rule of law; the nature of authority, property, and liberty; the separation of powers; and federalism. No *summa theologica* of constitutional law, the discussion proceeds by historical periods. The effect of growth produced is powerfully cumulative, and recent controversies fall naturally into place in the grand drama of everlasting problems.

Professor Wright begins by pointing out that although the Constitution has been amended infrequently, it has lasted a long time. The "rational reconciliation of a fixed constitution with continuous growth and change has been one of the really essential elements in both the permanence and the flexibility of the Constitution. . . . Because the Supreme Court has been the final interpreter of the Constitution, that court has come to be a major symbol of stability and security." The story of the origin of judicial review, and of Marshall's predilection for property and national power, is well retold. It is contended that the change under Taney was not so great as is sometimes supposed, that the Dred Scott case was the first great failure of the Court to stop a national social reform, and that the Court in the Civil War failed substantially to influence events and to protect civil liberties.

Between 1865 and 1898, the "modern constitutional law" emerged, which lasted until 1937. While state powers were encouraged, the Court curbed interference with interstate commerce; while congressional control of commerce was allowed, statutes were construed narrowly against labor and in the interest of property; Congress was prevented from implementing the protection of civil liberties; and the immense project was completed of safeguarding property, but not civil liberties, through "substantive" due process of law. The twelve decisions of 1935–36 holding New Deal laws invalid were the climax of this constitutional policy; and the equally striking series of reversals beginning in 1937 with the discussion of court reforms marks out new constitutional policy for the future. Commerce is to mean "business" in a broad sense; Congress is to have the say about the "general welfare" under the spending clause; due process is to be more largely procedural and administrative as to property, and is to support powerfully the protection of civil rights; states may venture experiments previously forbidden; and intergovernmental enterprises of policy and administration will be encouraged.

"Undoubtedly judicial review was intended to be a conservative device, but it was intended to conserve the Constitution, not a particular economic philosophy," concludes the author. "The constitutional theory of Justice McReynolds has been changed in many ways, but the Constitution of James Madison is unimpaired. Indeed, the law of that Constitution is today in a healthier condition than it has been for half a century. . . . And once more the doctrines of the Court are in substantial accord with the main currents of national life." The reviewer cannot disagree with this telling of the story. He hopes that some day "constitutional law" in America will give due study to the great congressional and presidential constructions of the Constitution, instead of being occupied so completely with the so exquisitely organized documentation of the courts. Perhaps scholars may turn to this more readily, now that Professor Wright has so well summarized and clarified, with the tools of political theory, the mass of material new and old dealing with the judiciary's constitutional policy.

LLEWELLYN PFANKUCHEN.

University of Wisconsin.

Federal Coöperation with the States under the Commerce Clause. BY JOSEPH E. KALLENBACH (Ann Arbor: University of Michigan Press. 1942. Pp. viii, 428. $4.00.)

During recent years, there have been published a number of studies of the commerce power under the Constitution, with special reference to interjurisdictional relationships, by Corwin, Frankfurter, Gavit, Ribble, and others. Most of these have been limited in scope. Now comes an author attempting, in a volume of substantial size, a comprehensive survey of the whole field; and while he has properly made use of the earlier studies, the volume is by no means a mere summary and condensation of the work of others.

The organization and arrangement of the material in eleven chapters is logical and orderly. A discussion of the theory of exclusiveness of the commerce power is followed by a consideration of regulation by divestment, as illustrated by the Wilson Act, the judicial construction of which is discussed at some length. The confirmation of state power by the Wilson Act formula followed in such diverse fields as game birds and animals, oleomargarine and butter products, misbranded articles of gold and silver, and in plant quarantines. Later, the application of the Wilson Act formula was extended to cover prison-made goods and prize-fight films. The Webb-Kenyon Act is considered as an illustration of divestment by legislative prohibition, the Twenty-first Amendment by constitutional provision. Succeeding chapters deal with federal prohibitions of commerce for the protection of destination states (admission of Negroes, intoxicating liquors, prison-made goods); federal regulation of commerce for the protection of sending states (inspection of exports, game birds and animals, suppression of various types of crime, contraband oil, significance of regulation by conditional prohibition); and the federal adoption of state laws relating to commerce (quarantine and health laws, the slave trade, pilotage, workmen's compensation, and intoxicating liquors). The volume concludes with a brief summary and conclusions, a selected and classified bibliography, a table of cases, and an index, all of which seem adequate. All the leading cases are analyzed. The text itself is well documented, the printing and binding well and attractively done.

Students in this field will readily concur in the views of two eminent scholars quoted by the author in his preface. One concludes that the conflicting and contradictory doctrines found in the Supreme Court cases bearing on this part of the Constitution leave one in "utter confusion," while the other writes that "if all the opinions, monographs, treatises, and articles which have been written concerning the commerce clause of the Constitution were laid end to end, they would reach from confusion to futility." The author of this volume has done as much as one man can do to dispel this confusion.

In the limited space of a review, it is possible to select for comment only a few of the many points deserving consideration. In discussing the familiar background of the Wilson Act, the author considers the original-package doctrine and the silence-of-Congress doctrine as foundations of the divestment theory. In Leisy v. Hardin, the Court reaffirmed the original-package doctrine of Brown v. Maryland, leaving the states without power to control incoming shipments of liquor in interstate commerce. The answer of Congress to the decision was the Wilson Act—a measure warmly debated in the two houses, and later subjected to conflicting interpretations by the Court, although the constitutionality of the act was sustained in *In re* Rahrer. From this effort to uphold the state police powers by federal action, it was only a step to make violations of state police regulations a federal offense, but it took time. The Webb-Kenyon Act, approximately a quarter of a century later, brought this about. Fearing to rest their case on legislation, the dry extremists sought and secured the Eighteenth Amendment. When the sorry results of this policy became apparent, the Eighteenth Amendment gave way to the Twenty-first, which restored to the states the power to determine policy, still backing them up, however, with the promise of federal support in the enforcement of such policies as they might select. In this evolutionary process, the author concludes, "the importance of the Wilson Act cannot easily be overestimated. By it Congress made the first great breach in the wall of protection thrown up around interstate and foreign commerce" (p. 111).

The work is primarily a study in the field of federal-state relations, one of the main objectives in which is always to achieve uniformity. The tendency of the federal government to extend its powers on the one hand, and the desire of the states to preserve theirs on the other, creates an almost inevitable clash in point of view. A good deal has been written on the influence of federal administrative and legislative action upon state policies, but the author of this volume stresses a new and interesting point when he devotes a chapter to the federal adoption of state laws relating to commerce. This solution raises interesting constitutional questions of delegation of power by Congress to the states, and of the adoption by Congress of state laws and regulations as a part of the federal legal system. The numerous instances of the use of this device would seem to indicate the general acceptance of the latter theory. The possibility of raising important and relatively new questions of this character indicates how much work is still to be done in analyzing the kind of federalism we now have, and in planning the new federalism that is in process of development, to meet the needs of the days to come.

W. BROOKE GRAVES.

Temple University.

Administrative Regulation of Private Enterprise. EDITED BY JOHN P. HORLACHER. (Philadelphia: Annals of the American Academy of Political and Social Science, Vol. 221. May, 1942. Pp. viii, 256. $2.00.)

The twenty-three articles which comprise this study of administrative regulation are grouped under four general headings entitled "The Problem," "The Organizational Structure," "The Policy Function," and "The Adjudicative Process." With some exceptions, the emphasis throughout is on federal rather than state and local agencies.

The five articles in the first group deal with the development and extent of administrative regulation, the influence of parties and pressure groups on administrative agencies, and the transition from "regulatory" to "managerial" tasks in recent administrative control of private enterprise. Professor Charlesworth contends that political scientists have failed to modify their study of administration to take account of this transition; and it is perhaps fair to say that the volume as a whole bears out his contention. It is more concerned with the prevention of administrative abuses than with discovering more effective methods of management. This is not to say that the two problems are wholly unrelated. At any rate, this brief but provocative article will bear reading.

In the opinion of the reviewer, the group of articles dealing with organizational structure is by far the most satisfactory. Professor Gaus' discussion of the problem of integration reveals an intimate knowledge of the difficulties and a healthy skepticism of formal organizational remedies, and is rich in suggestions. Professor Pinney's presentation of the case for the independent regulatory agency is temperate and persuasive, and by no means denies the need for integration. The pragmatic tone of these discussions is maintained in the other articles of this section dealing with legislative considerations in organizing regulatory agencies, the performance of regulatory agencies in federal departments, the organization of aviation regulation, presidential influence on independent agencies, and representation of interest groups.

The section on the policy function is disjointed and heavily tinged with legalism. The five articles deal with the constitutional issue of delegation of powers, presidential coördination of policy, the review of administrative regulations, mandatory hearings in the rule-making process, and policy conflicts in radio regulation. Professor Stoke has some interesting comments on the "institutionalizing" of the presidency and its effects on administration, but the section as a whole contributes little to an understanding of the formulation of policy.

The articles on the adjudicative process have more cohesion than those on policy, although they seemed to the reviewer less penetrating than those on organization. Professor Gellhorn's argument for declaratory rulings is excellent, and elsewhere one may find competent discussions of several of the majority and minority recommendations of the Attorney-General's Committee on Administrative Procedure. As in most studies of administrative adjudication, relatively little attention is given to informal procedures, and to the various techniques of securing consent and imposing sanctions.

Hugh L. Elsbree.

Dartmouth College.

Politics, Parties, and Pressure Groups. BY V. O. KEY, JR. (New York: Thomas Y. Crowell Company. 1942. Pp. xviii, 814. $3.75.)

Designed as a college textbook, this volume effectively combines the standard, traditional material of the subject with realistic and precise analyses which some of the profession may consider "novel." Instructors bound by traditional thinking will have more difficulty with these unorthodox spots than will their students. The manual should prove a most stimulating teaching aid.

The introductory chapter on "Politics," and the first part of the volume on "The Contenders for Power," are properly founded on the assumption that an adequate understanding of politics cannot be gained by attention to political parties alone. These early chapters deal with a succession of important "clusters of interests" operative in the American political scene. But they do more. Severally, they advance, with illustration, the analysis of a series of "characteristics or features of political behavior." Indicative of the insight shown is the inclusion of a chapter on "Administration as Politics," along with such standard headings as "Sectionalism," "Agrarianism," "Labor and the State," "Business and Politics," "Miscellaneous Interest Groups," and "The Rôle and Techniques of Pressure Groups."

The second and third parts of the volume, "The Party System" and "The Electorate and Electoral Methods," present the usual material concerning parties and elections. Two unusual inclusions are the chapters on "Electoral Behavior" and "Straw Polls." These serve well to introduce students to some of the quantitative and precision work which has been developing in the field.

The final part of the volume, "Diverse Political Techniques," introduces some consideration of matters fundamental to the political order, such as "The Rôle of Force," "Pecuniary Sanctions," and "Education as Politics."

With all its novel features, the volume should still appeal to those of orthodox training, for standard material predominates. The text and references provide ample opportunity for supplementary instruction which would emphasize such approaches to politics as those of political history, party structure or functioning, legalism, political reformism, promotional or defensive philosophy, social "forces," nominal institutionalism, broad comparison, rough personal observation, pressure-group drama, political personalities, problems of the political scene, current factual reference, or the newspaper clipping bureau. The balance of fact and interpretation in the volume is excellent.

The author's claim to some novelty, however, merits emphasis and approval. According to him, it is "the conception of political science as the study of political *power*, its acquisition and retention, (which) is used to lend unity to the diverse materials included in the volume." That is true, but not the whole story. The analysis of political influence or activity is realistic and convincing because it deals with recurring *situations* and with that which actually occurs in various kinds of political situation. The situational approach is implied throughout, and is the methodological key to the volume's successful harmonization of diverse materials (pp. vii, 6, 63–65, 87, 98–100, 112, 139, 166, 167, 173, 253, 527, 710, 737, 742.) We really encounter government and politics, even "structure," "functioning," and "process," in actual situations. The historian and the legalist, the statistician and the behaviorist, the practitioner and the theorist, even the philosopher and the moralist, are at their best when dealing with data and values presented in actual situations. The author is well on the way to a situational political science.

For the student, this vital approach holds several important values. The volume is realistic, and therefore should catch and hold interest as well as afford insight and understanding. Realistic analyses of conditions, factors, relationships, political techniques, and reactions should start the student on the road to intelligent and effective participation in politics. The volume gives some introduction to quantitative and precision techniques of inquiry, while maintaining an eclectic position giving place both to orthodox and to new methods and skills of research. And systematic examination of related varieties of situations is shown to yield a residue more significant than unique facts or single-factor analysis.

HERMAN C. BEYLE.

Syracuse University.

California State Government. BY DEWEY ANDERSON. (Stanford University Press. 1942. Pp. xiv, 350. $2.90.)

From the background of his training in the social sciences and his experience in the legislative and administrative branches of the state government, Dr. Anderson has written a readable and practical book on the government of the state of California. The author's main interest is in making democracy work in state government. Consequently he devotes four of his eight chapters to a discussion of voters, political parties, elections, the legislature, the lobby and pressure politics, and direct legislation. Attention is focused primarily on the processes of government and the forces which cause it to perform as it does. Three chapters deal with the organization and functions of the executive and administrative agencies, both statutory and constitutional. A final chapter summarizes current problems of state government.

One notes the absence of certain topics usually found in such texts. There is no discussion of local government, state-local relations, the judiciary, and relations with the federal government. Constitutional development is only briefly mentioned. References for further study are given at chapter-ends, although a general bibliography is not included.

Operations of the state government receive frank and critical appraisal and evaluation. Many specific and constructive suggestions are made to improve administrative organization and methods and to insure control of their state government by the people. To the reviewer, the chapters on pressure politics and problems of state government are the most interesting sections of the book.

Designed for students in high schools and colleges, the volume can also be used profitably by public officials and citizens who wish to understand and to improve the government of their state.

FRANK M. STEWART.

University of California at Los Angeles.

The Higher Civil Service of Great Britain. BY H. E. DALE, C.B. (Bristol: Oxford University Press. 1941. Pp. xiv, 232. $2.50.)

At the outset, it must be said that this is a most illuminating book. Written by a retired member of the higher civil service who recently concluded nearly forty years of experience with the rank of principal assistant secretary and a C.B., the sparkling pages of this "inside" story differ refreshingly from the customary "official" productions. Although the author respects the confidences of his one-time colleagues, he writes with the sure touch of one who has lived behind the scenes. The result is an exciting, diverting, and highly instructive volume, to find the equivalent of which one would have to go back perhaps to Sir Henry Taylor's more sardonic essay, *The Statesman.*

The higher civil service is not the equivalent of the English administrative class. It is the upper crust of this *corps d'élite* who are habitually called into consultation by ministers on the special subject-matter of their respective competences. Dale calculates their number in 1939 at about 550, from among a total administrative class of nearly 1,500 and a total "civil service" of about 450,000. They include permanent undersecretaries, deputy or second secretaries, principal assistant and assistant secretaries, and private secretaries to ministers, together with legal advisers and a small number of technical officers. This number is barely sufficient, as the author sagely observes, to make a line (if all members were laid in a row head to heels) stretching up one side of Whitehall from the Ministry of Health to Trafalgar Square!

The weight of the influence of this administrative corps has often been noted. Here the reader finds an account of the formal relationships and, more important, of the inner socio-psychological *milieu* from which influence springs. The formal relationships are described in the second chapter, "Daily Life," in which a pattern of internal departmental operation is revealed that is a startling parallel to the working of a great department or agency in the federal government of the United States (pp. 23–27). Dale thus confirms from a distant shore what Macmahon and Millett have already demonstrated, that the federal government now has a well-developed, although imperfectly organized, higher civil service. One suspects that a further parallel might appear in an amplification of Brecht and Glaser's *German Ministries,* and an exploration of these likenesses and differences would make an important contribution. High officials, the author notes, spend most of their days in talking and listening; "the higher a man rises in the service, the less he writes and the more he talks and listens."

American readers will learn much about the higher public service of Great Britain (and something about the author) from his description of official temper of mind and disposition. What motives impel a brilliant university student to a civil service career? Dale's answer is threefold. For young men who are poor and without family influence (pp. 69–70), there are "really only two decent possibilities," school mastering at a public school (English reading) and civil service. Sons of fathers with an income between £1,000 and £2,500 which will cease with the elder's life face much the same dilemma and provide a "large contingent of admirable candidates." These two classes make up the large majority. They are supplemented by a third, small and tending to become less: "the sons of opulent and aristocratic families" who may choose the civil service by reason of family tradition, or to acquire a valuable experience, or to seize what they believe "the best chance of doing solid work for their country."

The diminishing proportion of those who belong to the upper class leaves the author with more than a trace of nostalgia for the old days. At the end, he agrees that more has been gained than lost by "this inevitable change," but he develops at some length the thesis that the introduction of young men of "modest" circumstances who are "brought up in a household with one or at most two servants" produces some civil servants with two defects (pp. 74–75): lack of self-confidence, i.e., the talent "of unconsciously behaving in all circumstances as though he were a member of the one profession that gives true liberty of action and speech, 'ample private means';" and lack of mental and nervous energy, which has been sapped by early over-exertion in preparing for the competitive examinations. The continued predominance of men from the upper social class in the higher civil service is urged by Dale because it facilitates the smoother operation of government, ministers themselves still being dominantly drawn from the same class. One recalls in this connection the recent study by Hiram M. Stout, *Public Service in Great Britain.* But the doctrine of homogeneity might be turned to different uses in a post-war Britain; and it would appear strange in a society such as the Canadian or American.

Three types of young personalities are subjected to the traditional framework of the British civil service. "Sometimes the Service acquires a man of intense energy, great driving force, and devouring zeal to improve his share of the world"—in forty years, the author recalls four, none of whom entered by the usual administrative class examination. These men, one gathers, are the spiritual forebears of such American demoniacs as Robert Moses. Although Dale does not identify them, it is clear that Sir Robert Morant is one; it is a pity that no adequate biography of this notable figure exists. Then there is a more numerous body who are by nature scholars, writers, and philosophers rather than administrators. Between the two is the great majority: "admirable specimens of the educated and capable middle class, intelligent without being noticeably responsive to new ideas, industrious, trustworthy, moderately ambitious, not enamoured of the Civil Service (or of any other profession) as such, but resolved to do their duties in it. . . " (p. 98).

To students of British government in its larger framework, the discussion of the relations of the civil service with ministers, with Parliament, and with the Treasury will perhaps be of greatest interest. Here the daily life of the British higher civil servant differs in degree, perhaps in kind, from that of his counterpart in the United States.

Two points in conclusion. What can we learn from this book concerning the soundness of war-time criticism of the British civil service? Very little—partly because the book was written before September, 1939; partly because the author (if he has been correctly read) would be more responsive to criticism that the present model represents a departure from 1910 than to the comment that it is inadequate to crisis government.

What can be learned about the conditions of the formation of an American higher civil service? Much—partly because the analysis demonstrates to any informed American reader that we already have the substance, if not the form; partly because it exemplifies so clearly that an institution of this sort must be an indigenous product, most delicately balanced with and adjusted to its political and other contemporary institutions.

These paragraphs fail to do justice to a notable book, full of insight, deft in reference, ripe in wisdom, and, in the best tradition, adorned with an occasional quotation from the classics. It will be as inevitable a companion of students of British institutions as Jennings' *Cabinet Government*, Finer's *The British Civil Service*, and that still enduring English quarterly, *Public Administration*.

LEONARD D. WHITE.

University of Chicago.

India and Democracy. BY SIR GEORGE SCHUSTER AND GUY WINT. (London: Macmillan and Company. 1941. Pp. xvi, 444. $5.00.)

Modern India and the West; A Study of the Interaction of Their Civilizations. EDITED BY L. S. S. O'MALLEY. (London: Oxford University Press. 1941. Pp. xii, 834. $10.00.)

India and Democracy is essential to an understanding of the extraordinary complexity of the problem of establishing democracy in India. The first part of the book, on the present political situation in India, is by Mr. Wint. He was for four years a League of Nations official in China, and subsequently spent two years in India studying its political problems. The second part is by Sir George Schuster, a Liberal member of Parliament who was for seven years Finance Member or treasurer of the Central Indian Government. He discusses plans for the solution of the present political deadlock and for the place of India in the post-war world. Both authors write with knowledge and restraint, and both display an undertone of pessimism. They agree that the large measure of self-government already established has not created a democracy in spite of the 36,000,000 electors, but has transferred power from a British bureaucracy to an Indian oligarchy. Peasants form the vast bulk of the electorate, and Sir George Schuster believes that a genuine democracy cannot exist until the governments of India carry out a protracted and very difficult campaign to educate them and to raise their standard of living. His chapter on the relation between rural reform and industralization is one of the best in the book.

Both writers regard the lack of unity in India as the most serious obstacle to the creation of democratic government. Rightly or wrongly, the Moslem and other minorities are convinced that Gandhi's Congress party is determined to control all India under a single party system analogous to that of the Kuomintang in China, using the parliamentary form of government as a means of ensuring continuance in power. The hostility of the Moslems to the Hindus has greatly increased since 1937, and their opposition has hardened toward any form of government which would place them under Hindu control. The great princes are equally hostile, and are a power to be reckoned with. Sir George Schuster's conclusion is that the British form of parliamentary government, with its principle of majority rule, has become unworkable in India. Since voting will long continue on communal lines, it would mean that the Moslem and other minorities would form the permanent legislative opposition, while the Hindus, who are dominated by the Congress, would always control the government. The experience with minorities in Europe is cited to prove that a constitution based on the principle of majority rule would break down, since the permanent minority would have no hope of ever coming to power. Sir George Schuster canvasses various suggested alternatives; but his principal point is an appeal to the Indians themselves to break the deadlock by devising some form of democracy which is better suited to their needs than is the British constitution.

Modern India and the West furnishes an excellent background to Schuster and Wint's study of the existing situation. Two introductory chapters are contributed by the editor, Mr. O'Malley, one on the state of Indian civilization in the seventeenth and eighteenth centuries, and the second an historical survey of the impact of Western civilization upon India. This is followed by separate chapters by various British and Indian authorities upon law, education, the press, transport, economic development, Hindu and Moslem cultures and religions, the primitive tribes, the emancipation of women, literature, political nationalism, and the effect of Indian civilization upon the West. Finally comes a general survey by Mr. O'Malley, about a quarter of the whole book, in which he summarizes and comments upon the other contributions and deals with subjects which they have not covered, such as the growth of political nationalism. The method involves a certain amount of overlapping: the land laws and their effect upon the farmers, for example, are dealt with in the chapters upon law, economic development, and the general survey. The duplication is not serious, and the result is that the subject is covered in an exceedingly comprehensive and detailed manner. At the same time, the treatment is clear, well balanced, and impartial. The impact of the West has changed India from a static to a dynamic society, and the sub-continent is in a stage of transition. So far, the ferment is largely confined to the small Western-educated minority; but it has begun to affect the agricultural three-quarters of the population. The two books should be required reading for any who think that India's problems can be solved merely by the application of Western ideas and formulas.

LENNOX A. MILLS.

University of Minnesota.

I Paid Hitler. BY FRITZ THYSSEN. (New York: Farrar and Rinehart. 1941. Pp. xxix, 281. $2.75.)

This book, which is the result of collaboration between Fritz Thyssen and Emery Reves, the head of an international feature syndicate, is capably translated by César Saerchinger. Some of the chapters are not corrected or revised, although they were dictated by Thyssen himself before he had to flee from the German invaders at the time of the fall of France. I see no reason to doubt the authenticity of the material contained in the book, and I think it constitutes a valuable source of information, corroborating, as it does, many important observations made by others about recent German developments.

Fritz Thyssen, the author, was a powerful German industrialist, a

Rhenish Catholic, an ardent German nationalist, who became an early supporter of the Hitler movement and in 1931 a member of the party. He explains his relations with Ludendorf and with Hitler and the other Nazi leaders. In October, 1923, he gave Ludendorf "about 100,000 gold marks" for the Nazis. In 1928, he "placed Hess in possession of the required funds" for paying for the Brown House. At another time, he financed the improvement of Göring's apartment in Berlin. "Altogether," wrote Thyssen, "I have personally given one million marks to the National Socialist party." This he did because he "believed that the Young Plan spelled catastrophe for Germany" and because he believed the Nazis "to be sensible and rational."

Later on, in 1935, he broke with the party and in 1938 resigned from the Prussian Staatsrat. Just prior to the outbreak of war, he escaped from Germany, and the book is partly a confession of his poor judgment and fatal error in believing that Hitler would save the German people. The chapters on "Nazi Quack Economy" and on "Nazi Organized Graft" are very revealing, and the many opinions about German post-war developments, including the occupation of the Ruhr and other events of the republican period, are illuminating. But they show more than anything else that Thyssen and the forces he represented will not be very helpful in the reconstruction of a free Germany after the war.

The book contains much interesting material, but it is very sketchy and poorly organized. Thyssen's speculations about Hitler's ancestry, about Himmler's membership in the Oxford Group, and about the desirability of a monarchy in Germany do not add much to the reliability of the volume. Nor does Thyssen's solution of the German problem, namely, the establishment of two German monarchies—one in the east and one in the west—appear sound. The book does, however, illuminate the background and operations of the Hitlerian system, and it reveals some of the more intimate reflections of an important but disillusioned German mind.

JAMES K. POLLOCK.

University of Michigan.

La Grande Crise de la République Française; Observations sur la Vie Politique des Français de 1918 à 1938. BY YVES SIMON. (Montreal: Editions de l'Arbre. 1941. Pp. 237. $1.75.)

This is the seventh book that has come from the pen of Yves Simon, although he is still in his thirties. The place of publication has some significance. Dr. Simon does not like Vichy. He regards Marshal Pétain, and those who put him forward, as pursuing a calculated policy of treason; he depicts Laval as "a politician of the mean sort"; and, therefore, in France he has not a place where to lay his head. His narrative has a personal tone:

there is a good deal about Simon, his birth, his Catholic affiliations, the circumstances that kept him from doing military service (his brother died as a volunteer in 1917). He does not mention the fact that, when the Flemings took control of Ghent University and the Walloons established a rival Institute for the purpose of maintaining French culture, he played a part, probably with the accolade of Paris. He is a philosopher, one somewhat addicted to esoteric themes. When he comes down from the empyrean to survey mundane affairs, he does at times resemble the Emperor Sigismund *super grammaticam*. It is a bit startling to be told that the French electoral system (*ballottage*) is based partly on proportional representation.

He does not sketch, as an historian or even a politician would, the course of events during the twenty years of peace. He assumes that his audience is familiar with what has happened and gives mainly comment and criticism. It was said of George Moore that, when describing Venice, he did find room for some canals and gondolas, but only as background for a portrait of George Moore. Similarly, we get a portrait of Yves Simon. It is interesting. This middle-class Catholic does not adjust himself readily to organized political groups. He speaks devastatingly of *Action française*, of Maurras and Daudet, and of their "enormous dose of lies." In spite of their attitude toward the Church, he has no harsh words for Socialists and Communists. He refers to Jean Jaurès almost with awe, and to Léon Blum with the greatest respect. Definitely he believes that French policy should rest on friendship with England and on cordial relations with a de-Hitlerized German democracy. France cannot rely upon military power. She should have clung to the League of Nations. The opponents of the League were "chiefly visionaries who believed that France would be safe with a strong army (or, later, with a Maginot Line), cynics, satanists, and acquiescers who, with restrained emotion, saw catastrophe approach, but who hoped that it would not arrive in their own time."

This is a book that, being allusive rather than descriptive, will vex the ignorant. But the interpretation of events seems sagacious; and, if the author escapes old familiar categories and leaves us at times baffled and bewildered, he may represent the new generation groping for a new national policy.

EDWARD MCCHESNEY SAIT.

Pomona College.

Government of the Argentine Republic. BY AUSTIN F. MACDONALD. (New York: Thomas Y. Crowell Company. 1942. Pp. xii, 476. $3.75.)

The Argentine Republic is unquestionably the most important and among the most progressive of the Spanish-speaking states in Latin America. The value of its exports and imports surpasses all others, and it boasts the largest railway mileage, the most motor cars, the largest number of telephones, and the largest and finest capital in South America. Argentina is fully appreciative of its primary position among the American republics, and perhaps for that reason has been jealous and suspicious of the United States, its greatest rival in the Western Hemisphere. Nevertheless, in its government Argentina has not hestitated to copy the federal system as exemplified in the United States, although with such modifications as have been deemed more suitable to local conditions, as for example the considerable attention given to the presidential cabinet in the Argentine constitution.

No adequate study of the Argentine government has been made since Dr. L. S. Rowe wrote his scholarly monograph over twenty years ago. Therefore, Professor Macdonald had a fallow field for his investigations, and he has taken the fullest advantage of the opportunities afforded. Beginning with a brief historical survey of the constitutional development of the Argentine government, the present governmental structure is analyzed and its workings portrayed in considerable detail.

Some of the procedures which have developed in the Argentine governmental system should interest the political scientist considerably. The provision of the election laws for compulsory registration of every male citizen after he reaches the age of eighteen gives the government all essential information for enforcing military service and brings to the attention of the young citizen that his vote is an important privilege. The results of the Argentine system of limited voting have apparently been unsatisfactory. The right of the federal government to intervene in a province to the extent of removing all provincial officials—a power that has been employed 129 times since the existing constitution was set up in 1860—is a most interesting development of centralized control. Professor Macdonald concedes that "such federal interference may be good government within the province, but certainly it is not self-government."

As regards the personnel of government, the president of Argentina has even greater powers than the president of the United States, and in the field of foreign affairs treaties negotiated by him need only a majority vote of the Congress instead of a two-thirds vote of the Senate, as we require. Argentina, like the United States, has experienced the rising cost of government, with a present outlay eight times as large as in 1900, although with only a threefold increase in population. Professor Macdonald's treatment of the various fields of federal administration is particularly comprehensive, thereby affording the reader an adequate appreciation of the government as a going concern. Provincial and local government are covered briefly, and comprehensive bibliographical references follow each chapter. The only suggestion for improvement of the study from the reviewer's standpoint would be a fuller presentation of the author's personal conclusions concerning the subjects which he has so objectively and adequately presented.

GRAHAM H. STUART.

Stanford University.

Behemoth; The Structure and Practice of National Socialism. BY FRANZ NEUMANN. (New York: Oxford University Press. 1942. Pp. xvii, 532. $4.00.)

The Roots of National Socialism. BY ROHAN D'O. BUTLER. (New York: E. P. Dutton and Company. 1942. Pp. 304. $3.00.)

These two books, both of considerable importance and originality, should be read together because, looking on the same reality from two different points of view and using different methods, they will leave in the mind of the reader a more complete and better balanced impression of the German National Socialist system.

The book of Mr. Neumann is an almost encyclopedic survey of the development and present functioning of Nazi Germany. In the enormous flood of literature now covering the most spectacular dictatorship of our period, there is no treatise which offers such an amount of facts and critical evaluation as does this one. It is not too much to say that there is no single aspect of the German problem to which the author does not contribute some important facts, interesting sidelights, or a new hypothesis. As a former German lawyer, systematically trained in both jurisprudence and philosophy, he gives us a synthesis based on intimate knowledge of personalities and events chiefly instrumental in the creation of the Germany of our day.

The author chose *Behemoth* as the title of his work in allusion to the famous book of Thomas Hobbes in which the English philosopher analyzed England during the Long Parliament, representing it in contradistinction to his *Leviathan* as a non-state, a kind of anarchy and lawlessness. This is exactly the conclusion which Neumann arrives at concerning Nazi Germany: it is, according to him, a non-state, a perfect anarchy of egotistic fighting groups, without a final integration under a really sovereign will, without a doctrine, a principle, an ideology which would mean more than an arbitrary demogogic attempt to cheat the masses. Both generalizations will arouse contradiction, because until now the Nazi state has been able to carry out the supreme will of the Führer in all controversial issues, crushing all opposition of the dissident groups. Similarly, to deny a real ideologic foundation to the Nazi state because of its emotionalism, mysticism, and its compilatory character is an over-rationalistic postulate which forgets sentimental and irrational elements often present, even outstanding, in the ideologies of dynamic social transformations.

The chief claim of the book, however, does not lie in the systematization and enlargement of our knowledge concerning the Nazi experiment. The ambition of the author goes much farther than this. He tries to show that most of those who have investigated the Nazi experiment were on the wrong track. The dominant tendency of the post-war literature has been the rejection of a purely or preëminently economic explanation of the totalitarian state, stressing the historical, ideologic, sentimental, and individual factors in its development. This anti-economic interpretation went so far as to affirm the preponderance of the political forces over all categories of the classic economic science. Already Rudolf Hilferding, the theorist of the German Social Democratic party, has stated very clearly: "What a government economy does is precisely to abolish the autonomy of economic laws; it is not a market economy, but an economy for use. What is produced and how it is produced is no longer determined by the price but by the state planning commission, which fixes the character and the extent of production." An influential literature has interpreted the whole story as the "end of competitive capitalism," the "end of the economic man," the era of the "managerial revolution."

Such a hypothesis is manifestly contrary to the Marxian doctrine, which regards every fundamental political change as a change in the development of the productive forces of society. The author tries to invalidate this whole anti-Marxian conception, showing that what really happened in Germany was an expansion of monopolistic capitalism which, with the help of the Nazi political structure, has enlarged its monopolies and destroyed most of the competitive forces of the previous market economy. His main conclusion is therefore this: "The German economy of today has two broad and striking characteristics. It is a monopolistic economy—*and* a command economy. It is a private capitalistic economy, regimented by the totalitarian state. We suggest as a name best to describe it, 'Totalitarian Monopoly Capitalism'" (p. 261).

This thesis is expounded and documented in a survey of one hundred forty condensed pages in which the author endeavors to demonstrate that in the Nazi experiment Monopolistic Capitalism and not the Nazi State was victorious, that it created the necessary economic order for its own benefit, that all the essential categories of the capitalistic system continue to function on a higher level and with an enormous expansion of the productive forces of society. The "economic man" is not at all dead. On the contrary, the motives of competition, of profit, are manifesting themselves with a renewed vigor.

Space forbids us to accept the challenge of this argument. The impression of the reviewer is that the conclusions of the author are based on an over-emphasis of certain facts and an under-accentuation of others, and on the introduction of a number of new technical definitions about the meaning of "market economy" and "capitalism." For instance, when he tries to prove that the Nazi economy has remained a profit economy, almost a super-profit economy, he says: "As regimentation spreads, as price control becomes more efficient, as regulation of the credit and money market becomes more stringent, as the government strengthens the monopoly of the capital market, and as foreign trade evolves into a political operation, the need to make profits becomes increasingly urgent. Profits are not identical with dividends. Profits are, above all, salaries, bonuses, commissions for special services, over-valuated patents, licenses, connections, and good will. Profits are especially undistributed profits" (p. 355.) Such a definition of profit, mixing economic elements with those of graft, political pressure, and special illegal privileges is manifestly too vague for deciding the fundamental controversy.

The reviewer thinks that the author over-stresses the power of the economic interests, of the rather tolerated capitalism, and underrates the real power of the Nazi machine; furthermore, that he does not stress sufficiently the fact that this monopolistic capitalism was a product of the militaristic state, planning exclusively for war and using the party mechanism of the Nazis to crush all resistance against war collectivism. At the same time, the author strongly under-values the ideologic forces without which the Nazi war-state would be unthinkable. And though he has contributed brilliant pages to the understanding of those ideologic factors (for instance, the charismatic leadership, racism as a factor in eliminating class struggle, the enormous significance of the Nazi fake equalitarianism, and the great possibilities of the forces slumbering under the artificial machinations of the *Kraft durch Freude* and the self-destruction of propaganda), he is inclined to regard all these non-economic elements as simple propagandistic devices to cheat the populace, and to interpret the Führer and all his underlings as perfectly uninfluenced and unbound by their own ideology.

And here is the point where the work of Rohan Butler, a fellow of All Souls' College at Oxford University, seems to me a healthy counter-weight to keep the balance of the whole picture. In tracing the roots of National Socialism, Butler describes one hundred fifty years of German intellectual history, showing that there is no single item in the Nazi philosophy which was not previously announced by some eminent German writer, philosopher, or politician who commanded high respect in the most influential German public opinion. Of course this is not a new and original observation. Already before him many able writers (to mention only Aurel Kolnai, H. Mankiewicz, and above all Jean Edouard Spenlé, the author of a splendid and not sufficiently recognized book entitled *La Pensée Allemande de Luther à Nietzsche*) have traced the genealogy of the Nazi idea. But, whereas these writers remained somewhat on the surface by elaborating occasional analogies between Nazism and previous currents, the present author shows the organic continuity and the almost inevitable finality in the German development—a fact which in itself would exclude a supervaluation of the economic motive. A further advantage of Butler's book is that he excludes almost completely men of smaller and occasional significance and concentrates exclusively on the real landmarks of German thought from the romanticists until the present date. And he has accomplished this task, not by giving loud and sensational excerpts for the corroboration of a thesis, but by presenting with a great dialectic and intuitive force the real essence of the German thought. Even those who have known all or most of the documents which Rohan Butler presents will often be literally overwhelmed by the inner logic and the almost horrifying weirdness of the German spiritual development. Because this is the really astonishing thing in the German situation: There is practically nothing new in the German synthesis. All its elements may be found in the literature of other nations too. But, whereas these elements remained individual particularities or odd extravagances with the writers of the other nations, they have become a rigid dogmatic system in the German soul, directed primarily against the fundamental values of Western civilization. The author demonstrates this point pertinently. At the same time, he is fair-minded enough to see some valuable elements in the German thought which appear as an enrichment of the liberal atomistic ideology of the West. As a matter of fact, he devotes some highly interesting pages to analyzing the structural differences between the German and the Western thought, a difference which was thoroughly grasped in its tragic consequences by the great historian E. Troeltsch in an address delivered in the heyday of the Weimar Republic.

And this remains a fundamental problem of the future: What should we do with Germany after the war? The question will be answered quite differently by the protagonists of economic determinism and by the believers in a special German spiritual structure. For the former, economic prosperity and free political institutions would solve the problem. For the latter, a wholesale remolding of the German mentality would be the prerequisite to all other reforms.

Oscar Jászi.

Oberlin College.

World Order in Historical Perspective. By Hans Kohn. (Cambridge, Mass.: Harvard University Press. 1942. Pp. xiv, 352. $3.00.)

The struggle of man for "world order" and the underlying conditions of its existence constitute the theme of the four essays in this volume, which is the fourth in a series by the author written since 1936. Democracy nationalism, and imperialism are viewed in historical perspective, and in relation to the present "crisis" of civilization, a crisis which is viewed as an "unprecedented challenge which can be met only by an unprecedented response, the establishment of a world order based upon liberty and equality." The crisis is viewed as different from all preceding ones, because of "its universal scope" and "its decisive character."

This "crisis of civilization" results from the challenge which nationalism and imperialism, in their contemporary forms, make to democracy. It has been the tragedy of the democracies that they have not recognized the nature of the crisis. Their unawareness caused that "intellectual and moral confusion" which made it possible for National Socialist propagandists to "proclaim to the whole world that democracy was obsolete and effete, and that fascism was the wave of the future. The Fascist powers "had vision and courage, and they put these virtues into the service of total corruption. The democracies, much less corrupted, had neither vision nor courage." "They continued to drift in the old direction, but . . . the goal seemed lost, the vigor gone."

The German revolution of 1933 is viewed, not as a product of "historical necessity," but rather "as a result of many historical accidents, of mistakes made by its adversaries, of intrigues and of personalities." It represents the triumph of "Prussianism, Romanticism, racialism, and Nietzscheanism" over the finer German spirits of the past. It is a "counter-revolutionary movement against the human progress of the last three centuries." The United States is seen as the "shield of world democracy," and the ultimate and decisive adversary of National Socialist Germany.

As forecast by Marx in 1848, the end of "national exclusiveness and particularism" has arrived, and an "unprecedented challenge has been thrown down to man." This crisis is not a war of races or of continents. It is not against Asiatic Russia, nor the Yellow Peril. It is a war to determine what sort of system will supplant the era of "national exclusiveness and particularism" which is now being relegated to the past.

The author is neither pessimistic nor optimistic. He presents the contemporary dilemma and points out that things which have seemed visionary in the past are now accomplished facts. It is possible for this to be true of "world order." It is for man to decide. Dr. Kohn's chapter on nationalism is a brilliant analysis of the problem, and his entire book is a challenge for us to face the future with determination and unity. "Only United Nations, developing a growing sense of unity, can win the war."

George Bernard Noble.

Reed College.

The Coming Age of World Control. By Nicholas Doman. (New York and London: Harper and Brothers. 1942. Pp. x, 301. $3.00.)

This is a challenging book, intended "to offer an approach to our thinking about the basic requirements and conditions of world organization and peace." Mr. Doman explains that by "world control" he does not mean world domination, but rather world government; the word "control" is, however, significant of his emphatic conviction that a very large measure of authority must be exercised by a world state if there is to be peace and order in the future. The title therefore suggests the general thesis of the book, namely, that the trend of international development has been toward the integration of political units and political institutions, and that this trend is bound to continue.

Mr. Doman develops this thesis in ten chapters, divided into two parts: "From the Age of National States to the Age of World Wars," and "From the Age of World Wars to the Age of World Control." His general argument runs about as follows: (1) The system of national states is a temporary system only, which fits well enough into the conditions of the nineteenth century, but which is now "anachronistic, a cluttersome relic from past times." (2) The character of the first and second World Wars, as wars of ideologies rather than of nationalisms, makes logical, necessary, and possible the abandonment of the system of national states for something else. (3) Assuming the defeat of the Axis, there must follow the creation of a world state, supernational in character, at any rate so far as the maintenance of peace is concerned. (4) This world state should be universal in scope, should be democratically organized, and should have a monopoly of armed force in order to be genuinely effective.

These points, which are here stated very summarily, are argued most persuasively. Many matters relating to the problem of world organization are not discussed at all, but Mr. Doman has his reasons for that. He is definitely interested in the political rather than the economic approach, for he believes that "without political foundations a plan for a world-wide economic order will remain an empty dream." He expressly disclaims any attempt to draw the blueprints for his political world state, desiring to deal only with basic principles. He is probably at his best in discussing the problem of force, and he goes into some detail with respect to the nature, organization, and distribution of the international police (Chap. VII). He is no visionary, and understands the necessity of a transitional stage, and of coercion by the victors. "The organization of the international police force will never be initiated if we wait for the concerted efforts of every nation in the world." The vanquished Axis must be totally and unconditionally disarmed, and there must not again be any nonsense about equality of disarmament.

Unlike some others who have their own plans for world organization, Mr. Doman shows also that he understands the established League of Nations and fully appreciates its tremendous importance in the development of international government. It failed, in his opinion, because it was too completely what was implied by its French name, *Société des Nations*, a voluntary organization. "No world order is feasible if its indispensable constituent parts are allowed to withdraw at their whim or to refrain from joining. Compulsory adherence of every geographic region of the earth is indispensable for any organization that wants to regulate the political problems of the world effectively. Adherence is not equivalent to coöperation, yet absence from the world organization permits the retention of free action on the part of national or other units. A potential nucleus of resistance against the democratic designs of the political world organization could create precarious conditions. On the other hand, the resources of even the spiritually non-coöperative members are at the disposal of a universal organization; they can be commandeered in the interest of the organization lest they aid the revolt against the supernational world order."

Many of us will regret that Mr. Doman has passed over so lightly the problems of organization in such a world state as he contemplates, and many of us will doubt that the democratic nations, perhaps particularly the United States, are yet ready for so powerful a world state. His analysis is, however, a significant and stimulating contribution, which cannot be ignored. In the words of Lincoln, so aptly quoted in this book: "The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthral ourselves, and then we shall save our country."

CLARENCE A. BERDAHL.

University of Illinois.

Survey of International Affairs, 1938: Vol. I. BY ARNOLD J. TOYNBEE, ASSISTED BY V. M. BOULTER. (London and New York: Oxford University Press. 1941. Pp. x, 735. $9.00.)

After recovering from his initial surprise that a survey of international affairs for 1938 contains no material on the Munich crisis of that year (a matter which will be treated in a separate volume of the *Survey*), the reader can settle down with the assurance that Professor Toynbee and his colleagues have prepared a competent summary of other events on the basis of the documents now available. Particularly outstanding is Mr. Harold Beeley's treatment (pp. 414–479) of the British mandate for Palestine. Students familiar with the 1937 Report of the Royal Commission on Palestine can find in Mr. Beeley's section of the *Survey* an admirably impartial and thoroughly documented continuation of the story down to the outbreak of war in 1939. Arab and Revisionist terrorism and aims, British imperial interests, the abandonment of the Partition proposal, the abortive London conferences, and the White Paper of May 17, 1939, are presented and analyzed with skill.

"World Economic Affairs" is discussed (pp. 1–128) by Mr. Allen C. B. Fisher, with special emphasis on "economic autonomy" and Axis trade policies. Mr. G. E. Hubbard continues his treatment of the Far East through 1938 (pp. 493–573), with a conclusion that unless Japan could overcome the active and passive resistance of China and increase the industrial development of Manchuria, it looked in 1938 as if she would have to relinquish her plans for a New Order in Eastern Asia. (It is only fair to add that the material for this volume was largely written prior to September, 1939.)

In an interesting, though somewhat tendentious, section (pp. 574–663) on the American attitude toward world affairs, Mr. David Mitrany sees isolationists behind every bush and in every wood-pile and regrets that their views "made it impossible for the Administration to pursue an open course" instead of having to resort to subterfuge and circumvention in matters such as the Neutrality Acts. It seems to the reviewer that it is impossible to gauge American public opinion by relying so heavily as Mr. Mitrany has on "the leading Eastern newspapers" to discover what America thinks. The Appendix to the *Congressional Record* (compare the period from June, 1940, to Pearl Harbor, for example) would give a better cross-section of American *editorial* opinion, but even this alone is a doubtful criterion of "what America thinks."

Of European affairs, this volume traces events from the fall of Mr. Eden through the fall of Austria. The seizure of Austria by Hitler is soberly chronicled with but slight additions to our previous knowledge. It is surprising to find the editor willing to cite *The Times* correspondent, but apparently unwilling to refer to journalism such as G. E. R. Gedye's illuminating *Betrayal in Central Europe*. The liquidation of the Spanish War is discussed in an informative section (pp. 260–413). Two brief but interesting portions of the *Survey* deal with the *de jure* recognition of France and the *de jure* recognition of Italian sovereignty over Ethiopia. If, as Mussolini is reported to have said, *de jure* recognition is nothing but a miserable fig-leaf covering a concrete reality, it has nevertheless been much sought after as conferring the seal of respectability on conquerors.

A great deal of painstaking work has gone into the preparation of this volume. It is a useful addition to the series.

HERBERT W. BRIGGS.

Cornell University.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

The one hundred seventy-fifth anniversary of the founding of Rutgers University was celebrated by the presentation of three distinguished papers on federalism in the United States. *Federalism as a Democratic Process:* Essays by Roscoe Pound, Charles H. McIlwain, and Roy F.

Nichols (Rutgers University Press, pp. 90, $1.25) explores the origin and traces the growth to the Civil War of the American federal system. Dean Pound, in demonstrating that "a federal polity is necessarily a legal polity," points out the indebtedness of American federalism to Puritan conceptions of individualism and of local political organization. Professor McIlwain presents the historical evidence for the existence of the federal principle in the earlier history of the British Empire. The old relations of Wales, Scotland, Ireland, and the Channel Islands are brought out and dusted off to show their influence upon the pamphleteers of the American Revolution. From the general knowledge of the constitutional issue possessed by the founding fathers, the conclusion is reached that these British precedents must have been "one of the prime sources of the federal frame of government under which we still live." But Professor Coker, in commenting upon the paper when it was read, expressed doubts whether the men of 1787 were consciously or subconsciously influenced by the early English examples. Professor Coker's challenge is important, because it shows with that care historical data must be handled if it is to be of value to political science. In the last essay, Professor Nichols develops the idea that the Civil War marks "the turning point in the evolution of federalism in the United States and made possible the new federalism of the present day." He points out that federalism in this country has been a pattern of living and thinking ingrained in the nation rather than a system of government set forth in the Constitution. The political controversies which led to the Civil War resulted in a change of pattern, but not to the destruction of federalism.—WILLIAM SEAL CARPENTER.

Albert C. F. Westphal informs us that his monograph, *The House Committee on Foreign Affairs* (Columbia University Press, pp. 268, $3.00), "originally intended to be a full-length study of the rôle of the House of Representatives in foreign policy, has been whittled down to an analysis of the Committee on Foreign Affairs." The original purpose of the author is much in evidence, however. While obviously it would be impossible to describe the work of a particular committee without a certain amount of discussion of the House as a whole. Mr. Westphal has developed in considerable detail the comparative importance of the House and Senate in relation to foreign affairs. A natural conclusion is that since the House plays much the lesser rôle, the House Committee on Foreign Affairs is also of less significance than the Senate Committee on Foreign Relations. The author calls attention to the fact that neither committee "chose to describe itself as a Committee on *Foreign Policy*," the latter term suggesting "conduct, purpose, and continuity in international matters, elements most closely associated with the executive office." Mr. Westphal has presented a carefully documented study of a phase of American legislative machinery. In addition to books and printed reports, he has made extensive use of the unpublished materials in the Committee's possession or deposited in the Library of Congress. Rather sterile prior to 1913, these *Minutes* are more copious after that date. Is this an indication of an increasing interest in foreign affairs? Dr. Westphal states that "since 1935 legislation on foreign affairs has done much to bring the Committee into public and legislative prominence, although it is too early to predict that it will retain that position." He adds that "perhaps the most severe indictment that can be made against the House Committee is that its members have not developed into a body of experts, or even quasi-experts, who understand the complexities of foreign policy." Since the organization and control of the House are geared to the party system, the chairmen of the Foreign Affairs Committee have, with few exceptions, supported the President's policy. Mr. Westphal discusses critically the various proposals made by scholars to secure a larger congressional rôle in foreign policy, but sees no solution in any of them. In conclusion, one may say that Mr. Westphal's monograph has fulfilled its purpose: "to study functionally, primarily since 1898, the work of the one committee in the lower house that embraces within its jurisdiction those matters which bear most directly and immediately on our international relations."—EVERETT S. BROWN.

Persons working in the field of municipal government and administration will find the ninth edition of *The Municipal Year Book, 1942* (International City Managers' Association, pp. x, 685), edited by Clarence E. Ridley and Orin F. Nolting, even better than previous editions; and many had thought the ceiling of merit had been reached and that further improvement could not be expected. The book is growing not only bigger and better but unfortunately more costly, the price now being increased to $8.50. The regular features of previous editions are brought up to date by reporting 1941 data, and some new sections are added. The additions include a 96-page atlas containing maps of the United States and of the 48 states; data on refuse collection charges; metropolitan communities; and city-owned parking lots. In a new section on "War-time Organization of Cities," attention is given to local defense councils, their organization and work, and especially their relation to city governments. A list of recent publications on defense activities enhances the value of this section. "Federal-City Relations," a regular feature of the *Year Book*, takes on special significance this year, offering a summary of national defense legislation having a bearing on municipal problems. These two sections present an over-all picture of the impact of war on city affairs. In addition, the authors of several of the sections on municipal activities, such as housing, public works, police, fire, and recreation, give attention to problems arising out of the war effort. The *Year Book* provides an excellent means of keeping up on current problems in the field of municipal government—what they are and what cities are doing about them. It either gives the answers or tells where they can be found. Not only is the information there, but it is usable, being well organized and well indexed. Previous reviews in this journal have referred to *The Municipal Year Book* as "indispensable for those actively working in the field of municipal government and administration" (1941); "an authoritative résumé of what's what in city government" (1940); and "a fit addition to a series of distinguished volumes" (1939). The present reviewer agrees with all the good things that have been said about the *Year Book*; and so far as he knows nothing bad has been or can be said about it.—CHARLES M. KNEIER.

The Minnesota Commission of Administration and Finance, 1925–1939 (University of Minnesota Press, pp. xiv, 160, $2.00), by Lloyd M. Short and Carl W. Tiller, is the story of one state's efforts to improve its public administration. The account provides a desirable chapter in the growing volume of analyses of governmental reorganization in the states since the last war. A brief historical sketch of the establishment of the three-man Commission helps to explain some of its subsequent successes and failures. The agency was born out of political strife, and its initial efforts were conditioned in no small part thereby. In fact, the political aspects of this administrative body throughout its fourteen years of existence should be of extreme interest to students concerned with the relation between politics and administration. The organization, personnel, and procedure of the Commission are discussed briefly—somewhat too briefly, perhaps, for such important aspects of an administrative agency. The work that the Commission was supposed to do and the work that it actually did are interestingly contrasted. In all of its several functions—budgeting, control of expenditures, auditing, supervision of accounting, purchasing, personnel classification, and other miscellaneous activities—the Commission was ever subject to the wills of the governor and legislature. The powers of appointment and appropriation were ever available to stimulate or thwart the Commission in performing its statutory functions. The hindrances were more numerous than the stimulants. Conflict between the Commission and other state agencies, such as the University and the Railroad and Warehouse Commission, was habitual. Despite the limitations imposed upon the agency, however, it was able to focus attention on certain outstanding defects in Minnesota's administration. The authors attribute a number of recent reforms in the state to the Commission's efforts prior to its demise in 1939.—CLAUDE E. HAWLEY.

Students interested in the important problems of planning in the United States after the war will be indebted to the Twentieth Century

Fund for its report on *Post-War Planning in the United States* (pp. 158, $0.60), prepared for the Fund by Dr. George B. Galloway. The magnitude of the effort that will be needed to meet post-war readjustments is forcefully suggested by a survey describing the work of thirty-five government agencies, thirty-three private agencies, eleven industrial and financial organizations, sixteen trade associations, and seven rail, highway, water, and other transportation agencies. Although Dr. Galloway finds much of the research still in the planning stage, certain common assumptions and objectives constitute the basis for the plans now taking shape. With few exceptions, American post-war planning anticipates a United Nations victory. Preservation of the private enterprise system is widely taken for granted by both the public and private agencies in their research projects. There is, however, some question whether private enterprise can provide adequate employment and security for America's millions of employables without assistance. In addition to describing the activities and identifying their personnel, the report classifies the agencies according to the fields of planning; and extensive and selected bibliography is provided. The Twentieth Century Fund intends not only to continue its own post-war studies and activities, but to issue revised editions of Dr. Galloway's report as more information becomes available. Such a service can avert unnecessary duplication among the ever-increasing organizations undertaking post-war research, and also assure the general public that serious thought is being given to American post-war problems.—BELLE ZELLER.

Protection of the consumer against exploitation by unscrupulous producers and distributors has become a necessary function of the state in this technological age. Stephen Wilson's *Food and Drug Regulation* (American Council on Public Affairs, pp. xi, 177, $3.25) deals with one vital phase of this problem. Although concerned only with the federal Food and Drug Act of 1906 and its successor, the Food, Drug, and Cosmetic Law of 1938, the study inferentially throws much light upon broader questions and issues. It is a bill of particulars on conditions and causes which have led to abandonment of the traditional *laissez-faire* theory of government and economics. The detailed accounts of the struggles which produced the two regulatory acts provide excellent illustration of the functioning of pressure groups in the legislative process. The chapter dealing with enforcement of the 1906 law constitutes an illuminating case study on the difficulties of implementing a vaguely-phrased legislative statute relating to a most complicated subject. While there is no attempt to emphasize lurid details, the facts revealed concerning conditions in the food and drug trade are quite startling. The concluding chapter, which attempts to survey the broad social and economic implications of the regulatory laws, is, perhaps necessarily, somewhat superficial. An index, a table of cases, and the texts of the two statutes under discussion would add to the book's usefulness. Despite its limited scope, this is an informative, interesting survey of governmental policy in a matter of concern to every individual.—JOSEPH E. KALLENBACH.

It is impossible to write a one-volume work on Thomas Jefferson's long, full, and many-sided life without a severe delimitation of treatment. In his *Jefferson* (Harcourt, Brace and Company, pp. 459, $4.00), Saul K. Padover might have indicated his delimitation by some such subtitle as *Philosopher-Politician;* for he deals rather fully and sympathetically with the political and philosophical Jefferson, but rather sketchily with Jefferson as secretary of state and president. He is understandingly interested in the intellectual and scientific depth and breadth of the mind that was Jefferson's; in his grasp, preaching, and practice of democratic ideas; in his contact with the agrarian frontier and with the French Revolution; in his wide social contacts, whether with George Washington or John Adams or Tom Paine or Julius Melbourn, a cultured Negro who had been born a slave and who was entertained in Jefferson's home "with the same warmth and courtesy as . . . a French marquis." Mr. Padover reflects somewhat the influence of the late Ambassador William E. Dodd, who as a teacher first interested him in Jefferson. To say this is to say that the author has caught and conveyed the spirit of Jefferson, with eyes on both the past and the present. Jefferson is pictured as the wealthy democrat who was considered the radical of his day and who would have been labelled "red" had the term been in vogue. The economic reactionaries of Jefferson's time could be those of Franklin D. Roosevelt's time. The picture is thus, in part, an expansion of Claude G. Bowers' *Jefferson and Hamilton*, although less polemical in tone than the Bowers account. While utilizing the best works on Jefferson, Mr. Padover has relied strongly upon his own absorption of substance from Jefferson's writings. His bibliography has a serious gap or two. His best chapter is perhaps the last one, entitled "Sage."—H. C. NIXON.

That pressure groups, chief of which is business, characterize the struggle for control of our governmental process is the theme of *Economic Power and Political Pressures* (U. S. Government Printing Office, pp. ix, 222, $0.25), by Donald C. Blaisdell, assisted by Jane Greverus. The study appears as No. 26 in the T.N.E.C. series. In the contest to dominate public policy, business groups have greater "staying power," cohesion, and resources than do other organizations. The authors show, too, that these advantages, with the addition of relative invisibility, place business in a favorable position *vis-à-vis* government itself. The major portion of the study is valuable in bringing up to date Professor Herring's *Group Representation Before Congress.* Leading pressure groups and their recent activities are analyzed as to membership, philosophy, and techniques used to disseminate their ideas. A complete picture is presented as the authors discuss the important groups under general headings which include, among others, business, industrial relations, utilities, and agriculture. A chapter on "Contacts with Government" shows Congress as the focus of group attention, but the executive, the administration, and the courts are not neglected by these pressure groups and their lobbyists.—DAVID G. FARRELLY.

Mr. Thurman W. Arnold's latest book, *Democracy and Free Enterprise* (University of Oklahoma Press, pp. 81, $1.00), consists of the Baxter Memorial lectures delivered at the University of Omaha. Throughout the four chapters, the author emphasizes the urgent necessity of freeing production of restrictions imposed by cartels, monopolies, and labor and other groups—a theme familiar to all who have followed his brilliant career as assistant attorney-general in charge of antitrust law enforcement. Though lacking the epigrams and the paradoxes which characterize *The Symbols of Government* and *The Folklore of Capitalism, Democracy and Free Enterprise* displays the same realistic sense and balance manifested in those two books and in *The Bottlenecks of Business*. Mr. Arnold is forthright in exposing the fallacies underlying antiproductive ideas and methods which have characterized our economy from factory to farm. He is at his best, perhaps, in the chapter entitled "The Ideal of a Managed Economy." In his concluding chapter, "The Place of Antitrust Enforcement during the War," he outlines a program for freeing the production and distribution of goods from the artificial restraints imposed by interested groups. Mr. Arnold's ideal of an economy based on principles of industrial democracy designed to get the products of the mine, the field, and the factory to consumers may not be attainable, but history justifies his hope that the present war can, in his words, "blast the theory of scarcity out of our economy."—ROBERT J. HARRIS.

Completed in 1916, the manuscript for *History of Legislation for the Protection of Coal Miners in Pennsylvania, 1824–1915* (International Publishers, pp. 239), by Alexander Trachtenberg, now makes its appearance as a bulletin of the Bureau of Labor Statistics. Materials for the study were obtained chiefly from visits to a good many mines, talks with miners and operators, union publications, reports of mine inspectors, Pennsylvania legislative journals, statutes, and court decisions. After a chapter in which the author describes early English mining laws, some of which were brought to Pennsylvania by English immigrants, the author traces a long and bitter fight in the chief coal-producing state of the Union for the regulation of child labor, safe and healthful working conditions, shorter hours, honest weighing, cash payment of wages, accident insurance, and improved conditions generally. Like most retrospective studies of the Industrial Revolution, this one demonstrates the inhumanity of a *laissez-faire* economy and incites admiration for those who suffered and those who fought for the welfare of the common man. Every page shows painstaking research and, though the careful, almost tedious, recital of details precludes wide popular appeal, the book will prove valuable for reference. Readers will hope that someone will soon trace the history of mining legislation from 1915, where the author leaves off, down to the present time.—JOHN H. FERGUSON.

Always welcome to students of the many-faceted field of state government and administration are those monographs which present the specific case of an individual commonwealth. Timely and well written is Roscoe C. Martin's *The Growth of State Administration in Alabama* (Bureau of Public Administration, University of Alabama, pp. x, 96, free). Professor Martin's workmanship in handling his materials, historically and analytically, is excellent, within the limits of the volume. His criteria of measurement are: functional growth, growth in administrative machinery, expansion of personnel, financial development, and growth in population. Numerous tables and charts convey graphically the growth of Alabama's administrative machine from the Jeffersonian simplicity of 1820 involving less than fifty thousand dollars and ninety-two employees to the modern concept of the service state with over nine thousand employees and a budget of over sixty-two million dollars. Throughout the study the reviewer is impressed by Alabama's adherence to the pattern of development in other states. Changes in public attitude and shifting modes of management support the author's concluding observations and his delineation of trends. Although older services persist, the newer service functions of the state have been placed in a position of predominance.—DAVID W. KNEPPER.

America Organizes to Win the War (Harcourt, Brace and Co., pp. x, 395, $2.00) represents the work of a group of distinguished contributors upon the American war effort. With the exception of the contributions under the names of President Roosevelt, Vice-President Wallace, and Prime Minister Churchill, all were written for the direct purpose of inclusion in this volume. The list of authors includes Henry Steele Commager, Max Lerner, S. L. A. Marshall, Claude Wickard, Paul de Kruif, and others well-known as writers or prominent in public life. Together the chapters form a well-planned volume on the war and peace aims of the United States and "how we propose to carry them out." Topics concern the organization of the land, sea, and air forces, psychological warfare, censorship, the cost of the war, public health, morale, and what Americans are doing or should do to win the war, whether they are farmers, industrialists, members of a labor organization, scientists, or students. While changing events have rendered obsolete some of the factual material, the volume remains one of the best of its type yet to appear. It is particularly valuable for introductory courses in American government where the teacher desires readable and pertinent material upon the American war effort.—ROBERT S. RANKIN.

The somewhat prosaic title of John Comer's *New York City Building Control, 1800–1941* (Columbia University Press, pp. 289) may not attract as much attention from students of public administration as the book deserves. As the title indicates, the author traces the evolution of the present building controls and the development of the agencies to administer them in the city of New York. However, the book is no mere recitation of historical data that must have been very difficult to collect. Rather it is so organized and written that basic questions of public administration are brought into bold focus out of the impressive mass of detail. Here, in the story of building control in the nation's largest city, are the fundamental problems of the limits of administrative discretion, the arbitrariness and rigidity of attempted statutory control, the merits and feasibility of centralization and decentralization, and the difficulty of separating policy-making from administration. Here is a record of the influence of personalities on administrative practice and of the inevitable intertwining of politics and administration. Here is substantial evidence of Professor Freund's statement that administrative actions tend to develop into customary law. The study is well documented and has a useful index.—WILLIAM J. RONAN.

Federal Crop Insurance in Operation (Stanford University Wheat Studies of the Food Research Institute, Vol. XVIII, No. 6, pp. 229–290, $1.25), by J. C. Clendenin, is a concise and scholarly analysis of three years' experience with all-risk wheat crop insurance by the national government under the Federal Crop Insurance Act of 1938. Making considerable use of tables and maps, Professor Clendenin describes and evaluates the contractual, actuarial, and operational aspects of the program carried on by the Federal Crop Insurance Corporation and closes with some observations and suggestions about the program as a whole. In addition, there is a brief appendix with notes on private experience with crop insurance in the United States, crop insurance in foreign countries, action in Congress and federal departments prior to 1937, and federal insurance of crops other than wheat and several tables showing the growth of the wheat-crop insurance program, the extent of participation in the program, loss experience on FCIC contracts, average wheat yields and premium rates, administrative expenses, and experience on FCIC yields and premium rates in selected countries. The monograph, as a whole, is well organized and well written and is worthy of the attention of those who are interested in this aspect of the government's agricultural program.—E. M. KIRKPATRICK.

While the volume, *Federal Regulation of Labor Unions* (H. W. Wilson Company, pp. 286, $1.25), has been compiled by J. V. Garland as an aid to debaters, it serves the further purpose of making available a handy source of references upon this ever-lively subject. The book contains reprintings of twenty-eight periodical articles and speeches on all phases of the vexatious problem. An outline of the arguments presented and a bibliography of considerable length supplement the well selected materials. For additional help, a list of organizations from which literature and information upon the topics discussed may be obtained concludes the work. The volume makes no pretense to being anything more than a handbook for consultation and an introduction to the "significant differences" and "dominant positions" held on the question. As such, it keeps well abreast of the standard set by other issues in the Reference Shelf series.—HILTON P. GOSS.

FOREIGN GOVERNMENT AND POLITICS

In his *Pierre Laval* (Oxford University Press, pp. vi, 265, $2.50), Henry Torrès has contributed a revealing document to the post mortem *dossier* of the Third Republic. While sketching in intimate terms the tortuous career of this evil "genius in corridor machinations," the author gives us vivid sidelights on the interplay of intrigue and corruption which paved the way for the tragedy of 1940. To the shrewd, horse-trader peasant from Auvergne, observes M. Torrès in a singularly penetrating passage, France was but "a thing—the thing of three to five hundred voracious parasites who were able to lay hands on a country, bare it of its substance, and lead it to perdition: the coalition of interests and appetites, shady financiers and business men, wire-pullers, exploiters of corruption, who handle the powerful levers of public opinion, all working in the same direction." Utterly devoid of principle or generous impulse (unless it be a slavish devotion to his daughter), Laval is portrayed as the archtype of scheming French politician. We see him as the renegade socialist who managed for years to exploit his working-class origins to his own political advantage; as the manipulator of crooked deals, both in and out of public office, who always arranged somehow to escape the clutches of the law; as the fomenter of defeatism in two wars who eventually emerges as the fascist-minded strategist of "collaboration" with the Nazi conqueror of his country. M. Torrès does not pretend to write with detachment. His is the bitter indictment of a close political associate from whom estrangement was forced, gradually but inexorably, by the logic of events. The definitive political biography of Pierre Laval remains to be done, but the man who attempts it will have to draw upon this volume for much of his evidence.—WALTER R. SHARP.

The rôle of the Primrose League as the innovator of many procedures now commonplace in political organization has long been well known, but a detailed and objective account of its origin and activities has been lacking. This gap in the literature of political parties has been filled by Janet Henderson Robb, in *The Primrose League, 1883–1906* (Columbia University Press, pp. 258, $3.25). Miss Robb has written a thorough and interesting history of the Primrose League in its heyday. Her book is based upon a mass of contemporary manuscript, pamphlet, and periodical materials. By perusing its own minute-books and other records, and by observing some of the modern activities of the League, she has succeeded nicely in capturing the spirit of this colorful political machine. The Primrose League doubtless had considerable influence upon British policy, particularly in the imperial sphere, during the period covered by Miss Robb's study, but its claim to lasting importance lies rather in the field of political techniques and methods of propaganda. It was the first organization to proselytize by the skillful use of social appeals. It led the way in mixing entertainment with political propaganda. It successfully organized the masses, and especially women, in the interests of a political party. It was the first really effective auxiliary party organization. Miss Robb's book will be valuable to the historian as well as the political scientist. It is full of valuable sidelights on the social and economic history of the late Victorian period. It is regrettable that the author did not include at least a sketch of the history of the Primrose League after 1906. It is true that its importance has declined since that date, but it is still an active organization, and an extremely effective one in winning adherents for the Conservative party.—JOSEPH R. STARR.

INTERNATIONAL LAW AND RELATIONS

Among the "Studies in Foreign Affairs" recently published by the American Council on Public Affairs are some excellent monographs. Dr. Hugh O. Davis' *American Trade Equality Policy* (Pp. x, 137, $3.00, cloth, $2.50, paper) is a further contribution to this series; but his is one of lesser distinction. The documentary materials which the author uses have, for the most part, been widely exploited in other connections. However, he has made a careful study of both the documents and the subsequent secondary materials and comes forth with new conclusions. A major point of his thesis, which does not seem too firmly established when one has finished reading his volume, is that equality of treatment has always been fundamental in American commercial policy. His most careful analysis is given to the origin and chronological development of the *conditional* most-favored-nation clause inserted as Article II of the treaty of amity and commerce between France and the United States in 1778. This singular departure from the long-accepted unconditional type of most-favored-nation clause is credited to the French Foreign Office as to origin, but, as is generally known, the continued use and stress given to conditional agreements has been American. In view of all the difficulties and complications which have resulted from our use of such a policy (difficulties which the author does not for a moment overlook), it is not easy for us to agree that, whatever the complications, the policy of the United States has been consistently or fundamentally one of equal treatment for all. As W. S. Culbertson points out in the Introduction, "in practical commercial relations the conditional clause and interpretation have either forced us into an attitude of negation and quiescence, or, when we have attempted active commercial relations, left us pursuing a policy of discrimination" (p. viii). Even the author admits that the conditional clause outlived its usefulness. It came to have too many forms, connotations, and applications. Under it, there were "unilateral and unlimited" provisions, "reciprocal and unlimited" arrangements, and finally, "reciprocal and limited" agreements. Under this last "came such exceptions, limitations, and restrictions as the prohibitions imposed in the interest of plant, animal, and insect life; rights of foreigners; protection of public health, morality, and security; regional régimes based on preferential treatment accorded either for reasons of geographical contiguity or ethical association; and finally, tariff classifications, anti-dumping duties, countervailing duties, and quantitative exchange-control restrictions" (pp. 129–130). In short, all of the familiar weapons of exaggerated nationalism, short of the military, were evolved under this final interpretation of the conditional most-favored-nation clause. The recitation of such a list of evils has a familiar ring in the ear of a student of United States tariff and foreign trade history.—JOHN DAY LARKIN.

The story of the largely futile attempts to obtain international agreement and action for the conservation of birds and mammals is told by Sherman S. Hayden in *The International Protection of Wild Life* (Columbia University Press, pp. 246, $3.00). Hayden brings together material not before collected on the international efforts to protect migratory birds and marine mammals and to establish natural communities for the preservation of wild life. The material he has been able to gather is by no means voluminous, as the amount of international action has been discouragingly little. Indeed, Hayden finds that, with some birds and marine mammals, so little is known about their habits that effective conservation would scarcely be possible without much more research into their life histories. It is not surprising to discover in a world of national states that can provide little security for human life that there has been widespread indifference to proposals for conserving wild life. It is interesting to observe, however, that various national governments have reacted on questions of wild life conservation in a pattern similar to their behavior on other matters of collective security. There is the recurring insistence by some states on bilateral agreements and predilection of others for multilateral conventions. There is the willingness to sign treaties embodying general principles with no means provided for their enforcement, and the omnipresent resistence to the establishment of an effective international administrative body to carry out pacts that embody specific protective measures. Some small beginnings, looking toward wild-life conservation have been made, particularly in the London Convention of 1933 relative to African game preserves and the North Pacific Fur Seal agreements denounced in 1940 by the Japanese. Hayden has no illusions about the future of wild-life protection. He finds that wars set back conservation movements several decades, and that only a world enjoying the luxury of peace can really contemplate wild-life preservation. A number of appendices give the texts of the more important conservation treaties, and there is a very extensive bibliography.—William J. Ronan.

Information on industrial development in the countries of Southeastern Asia has been difficult to obtain, unless the inquirer was prepared to carry out much diligent research through a wide range of scattered materials. The merit of Jack Shepherd's *Industry in Southeast Asia* (Institute of Pacific Relations, pp. v, 133, $0.75) is that it gives a succinct picture of the degree of industrialization on the eve of the war in Indo-China, the Dutch East Indies, the Philippines, Formosa, Thailand, Burma, and Malaya. The general situation in all these countries was the same. All of them depended for their prosperity upon the export of their foodstuffs and raw materials. The principal industries were connected with the preparation of their products for the world market, such as tin smelters, rice mills, saw mills, and cocoanut oil and sugar refineries. With the partial exception of the Philippines, these industries were controlled by Western, Chinese, and Japanese capital. The very limited amount of native capital was found almost exclusively in the traditional handicrafts such as handloom weaving; and most of these small industries had suffered severely from the competition of imported machine-made manufactures. The heavy fall in the world price of Southeastern Asia's exports which followed 1929 had very serious effects upon native prosperity, and one principal cause of the industrialization of the 'thirties was the desire to make the countries less dependent for their prosperity upon the sale of a few staple products abroad. There was a considerable expansion of manufacturing, particularly in the Dutch East Indies. The governments took a prominent part in this development through the media of protective tariffs, quotas, and subsidies, or at times through actual participation in the new enterprises. Native handicrafts were galvanized into new life, and Western capital was encouraged to establish factories. The movement had a moderate degree of success; but Southeastern Asia will long continue to be predominantly an agricultural and mining area.—Lennox A. Mills.

For many years it has been popular to condemn Western colonial powers as "imperialistic," and to imply that motives entirely selfish, and even sordid, underlay the retention of all colonies. For some strange reason, this opprobrium has been heaped upon the more enlightened powers, and in turn has been used by the Axis nations as a strong propaganda point in their already bulging arsenal. In his *Formosa Today* (Institute of Pacific Relations, pp. ix, 193, $1.00), Andrew J. Grajdanzev shows the dangers inherent in blindly following these popular misconceptions. By using official Japanese figures and the reports of semi-official agencies, a picture of Japanese colonial exploitation is presented which makes the charges against other powers fade into insignificance. Figures are presented to show that instead of Japan pouring money into Formosa, most of the costs of development have been borne by the colony itself. Small native businesses are being forced out by large Japanese corporations making up to fifty per cent profit a year. Such corporations buy up real estate, thereby raising land values and making it almost impossible for ordinary farmers, about sixty-eight per cent of the population, to own their own land. This has meant a steadily decreasing return to the farmer for his labor at the same time that the land-owning companies were increasing their profits. In fact, the exports of as long ago as 1937 represented "not less than three-fourths of the total net value of production of Taiwan . . . ," and were controlled by Japanese companies. In 1938, the gross value of sugar cane raised was ¥ 78,200,000, while *exports* of sugar amounted to ¥ 189,258,000. The same facts govern industry and commerce in general. Such economic domination has its counterpart in the political sphere. " . . . we may say that after forty-five years of Japanese rule Taiwan is a colony in the government of which the islanders have no voice whatsoever and in which the Japanese themselves as citizens have little or no influence. The island is ruled by the governor-general with the help of the army and police" (p. 163). No such blasting statement can be made concerning any of the so-called "imperialistic powers" about which so much has been said. In its quiet way, this study gives the reader a greater sense of the gulf separating Japanese and American philosophies of life and government than many more lurid and popular publications. The volume furnishes basic facts supplied by the Japanese themselves, and describes a colonial regime which should be compared with the activities of the United States in the Philippines. The study should be in the hands of all persons interested in the Far East.—Andrew E. Nuquist.

Japan and the Opium Menace (International Secretariat, Institute of Pacific Relations, and Foreign Policy Association, pp. xiv, 170, $1.50), by Frederick T. Merrill, has value for political scientists for three reasons.

First, in connection with China, it shows the ebb and flow of effective regulation of opium production and consumption in relation to the political and governmental evolution of the country. Second, an introduction by Joseph P. Chamberlain and a concluding chapter on "The International Aspect of the Opium Problem in the Orient" not only summarizes adequately the steps taken internationally to bring opium and the traffic in narcotic drugs under control, but also brings into relief some aspects of the problem of international organization. The conclusions presented, i.e., that "the success of the international anti-drug campaign depends essentially on (1) the universal ratification of international conventions, (2) their adequate enforcement *in all countries* by able, experienced, and efficient national agencies, (3) close and active coöperation between the governments and an international coördinating and supervising authority, and (4) a minimum of political stability based on the respect by all countries of certain minimum standards in the conduct of international affairs . . . " can be applied in respect to other international activities than the anti-drug campaign. Third, the book shows the effect on both national and international administration of developments in the field of international politics. Beyond this, the book is important for those who are concerned with the opium problem in its historical and non-governmental aspects. In spite of the title, the author did not succumb to the temptation to minimize Chinese responsibility for conditions in China, although he does make it clear that the Japanese must bear the major share of responsibility for the increase in addiction within the last two decades, and especially since the Chinese government, after 1934, resumed the movement (in abeyance during the military period) to lessen cultivation of the poppy and to eliminate opium-smoking in the territories under its control.—HAROLD M. VINACKE.

Seldom has a book been more timely than *Modern Burma; A Survey of Political and Economic Development* (University of California Press, pp. ix, 381, $3.00), by John Leroy Christian. Issued under the auspices of the Institute of Pacific Relations, it was first printed in Shanghai just in time to fall into the hands of the Japanese after Pearl Harbor. Its reprinting in the United States, however, is not an unmixed blessing, as this has permitted the addition of a valuable chapter bringing the story down to the end of January, 1942. Thus at the moment that Burma dominated the headlines of the newspapers, the first general treatment of that country since Alleyne Ireland's monumental work published in 1907 was ready to supply both the expert and the lay public with the answers to many questions. *Modern Burma* is a mirror held up to that land by one who has lived there nearly a decade. There are chapters on the racial composition and the geography of the country; on its history, both domestic and diplomatic; on government, agriculture, commerce and industry, the social structure, the arts and education, religion, communications (including the Burma Road and the proposed Kra canal); and on foreign relations both within the Empire and with the surrounding Asiatic peoples. A great deal of work has gone into the preparation of the volume, as the documentation in the footnotes and the annotated bibliography testify. If there is any criticism at all, it is that the presentation of such a wealth of material in the relatively limited compass of some 300 pages of text makes the fruit of all this labor a sort of handbook. Professor Christian answers questions only to raise others which time alone can answer. The whole volume is a warning to those who would rush into any facile settlement for Southern Asia after the war. The political immaturity of the Burmans, the reactionary influence of the Buddhist priesthood, the presence of racial minorities within Burma's borders, the latent fear among the Burmans that they may be surmerged in a flood of Indians or Chinese, the Chinese claim to suzerainty, irredentism in Burma's ancient enemy, Thailand—these are a few of many problems which must rise to plague the unwary architect of peace in Asia. One is left with the fear that what has been said of Thailand applies to Burma, namely, that it is "a country rich enough to inspire cupidity, weak enough to tempt ambition, and foolish enough to court embroilments" (p. 277).—JAMES T. WATKINS, IV.

The bombs that fell at Pearl Harbor awakened in the United States an interest in Japan which a host of writers have since been trying to satisfy. Their books, coming from the press in an ever-increasing stream, range in quality from the scholarly excellence of Hugh Borton to the journalistic extravagance of Hallett Abend and James K. Young. Of them all, the most valuable single volume for clearing up misconceptions which the average American entertains about Japan and the Japanese is, in the opinion of this reviewer, Hugh Byas' *The Japanese Enemy; His Power and His Vulnerability* (Alfred A. Knopf, pp. ix, 107, $1.25). It is a little book (just a hundred pages) which appeared early this year. The author is familiar to readers of the *Times* of London and the *New York Times* for the sound articles on Japan which he has contributed for many years to those newspapers. *The Japanese Enemy* was written in the weeks following Pearl Harbor, partly to satisfy the sudden demand for information about Japan, and even more to warn those easy optimists who felt that war with Japan would be mere child's play for the United States. In successive chapters, Mr. Byas discusses the possible motives which led Japan to attack the United States; the type of reasoning which appeals to the Japanese; the vastness of the stage upon which the drama must be played; the struggle for political power which goes on in Japan; the economic, military, and ideological assets of the country; and some of the conditions of victory. Particularly valuable is the chapter entitled "Who Runs Japan?" None of the chapters is long. There is no attempt to be exhaustive. This is rather the work of a keen observer of Japan who is also sensitive to the questions troubling the American public, and who has selected the more important for attempted answer.—James T. Watkins, IV.

In *Social and Industrial Problems of Shanghai* (Institute of Pacific Relations, pp. 74, mimeographed, $0.50), Eleanor Hinder has produced additional facts and interpretations which excellently supplement Robert W. Barnett's *Economic Shanghai: Hostage to Politics*, also a publication of the Institute of Pacific Relations. Miss Hinder writes "with special reference to the administrative and regulatory work of the Shanghai Municipal Council. As chief of the Social and Industrial Division of the Shanghai Municipal Council, she has done a pioneer piece of work in the Shanghai International Settlement in bettering industrial conditions and in developing a consciousness of working conditions among employers, both foreign and Chinese. The author discusses industrial conditions, economic and social aspects of employment, employment relations, labor organization, housing, and problems of food, nutrition, education, and child protection in relation to workers in Shanghai. Two factors—lack of adequate legal authority to regulate industrial conditions and lack of understanding of modern employment requirements by the Chinese employers—conditioned the effectiveness of Miss Hinder's work for the Shanghai Municipal Council. Progress toward better conditions received set-backs because of the two wars of 1932 and 1937. Miss Hinder, however, found that the new problems occasioned by hostilities had to be dealt with, and in some cases older difficulties were lessened. Writing before December 7, 1941, Miss Hinder sees signs of progress in new plants, changing attitudes of Chinese employers to balance the great difficulties caused by refugee populations, plant destruction, and the like. It is highly probable that, in spite of complete Japanese control of Shanghai now, the progress made under Miss Hinder's able administration will be of lasting benefit to the Chinese on resumption of their authority over the city.—William C. Johnstone.

In three lectures published under the title, *The Interests of the United States as a World Power* (Claremont Colleges, pp. 64, $1.75), Whitney Hart Shepardson points out very emphatically that the basic interest of the United States is its own security. "It is the foremost duty of the state to provide conditions under which the individual can live out his life, free from fear of attack. Without this freedom, the other freedoms cannot be had" (p. 18). In the first of the three lectures, Mr. Shepardson relates the principle to our national past and to our present war effort. The final two lectures are devoted to the question of how the security of the United States can best be promoted in the post-war world—assuming, of course, victory by the United Nations. Here the reader will find concrete and sometimes controversial suggestions about European settlement. The armistice, believes Mr. Shepardson, should be signed at Berlin, or perhaps at Brest-Litovsk. There should be not one peace treaty with Germany, but two—a preliminary military *Diktat* followed sometime later by a general European treaty, negotiated with Germany as a full participant. As for the post-war rôle of the United States, isolationism is implicitly condemned as a rejection of our true national interest. The United States and Great Britain, both motivated by a common search for security, must take common action to prevent another German aggression. This small volume is delightfully written and provocative. A post-Pearl Harbor publication date attests to its currency.—WILLIAM I. CARGO.

In *The British Columbia Fisheries* (University of Toronto Press, pp. xii, 136, $1.00), W. A. Carrothers contributes to the Political Economy Series a study of a regional Canadian industry and of the problems of government arising therefrom. Most attention is paid to the salmon fishery, with briefer consideration to whaling and sealing, halibut, herring, and other fisheries. A careful description of each industry is given, with extensive statistical data. The relations of federal and provincial jurisdiction over the fisheries and the development of federal tariff policy are discussed. Of special interest is the analysis of the difficulties surrounding Canadian-American coöperation in conservation measures in the Fraser River sockeye salmon fishery. Negotiations between the two countries directed toward the coördination of salmon regulations and the establishment of a joint commission of control were frustrated in 1911 and 1919 by the hostility of the state of Washington to federal control of the fisheries within its territorial limits. Further sectionalism of this kind delayed a final settlement until 1936–37, when a treaty establishing an international Pacific salmon fisheries commission was ratified by Parliament and Senate. In the case of the halibut fishery, the Canadian-American treaty of 1924 set up a joint commission to regulate the industry; and we are told that "the Commission has achieved marked success in the work of conservation, and is an outstanding example of international coöperation."—GORDON SKILLING.

Two lessons for the student of international affairs stand out in Joseph E. Davies' *Mission to Moscow* (Simon and Schuster, pp. 659, $3.00). One is the fact that the President and the State Department reach conclusions on foreign policy on the basis of better information than that available to the rest of the country. The fact that the late Senator Borah held himself up as better informed on foreign affairs than the President seems even more appalling in retrospect than it did in July, 1939. The second lesson is the utter realism of Soviet foreign policy. The Russians were not fooled by appeasement or what it meant for any of the European Great Powers. They were not fooled by Hitler. Nor did they fool themselves in their pact with Germany in August, 1939. They took *Mein Kampf* seriously and worked feverishly to prevent a Hitler victory. Their diplomatic efforts to organize collective security failed. Fortunately, their own defense preparations were more successful. Mr. Davies keeps reiterating that Russian strength was not greatly impaired by the purges, which he discusses at some length. One can only hope that his general conclusions stand the test of 1942 as well as that of 1941. We should be grateful for this capable inside view of the pre-war picture from the vantage point of our Moscow embassy—and for the State Department's consent to publication of the dispatches, which otherwise would not have been available until years hence.—WILBUR W. WHITE.

Anita Bradley's study of the relations of Latin America and the Far East, in her *Trans-Pacific Relations of Latin America* (International Research Series, Institute of Pacific Relations, pp. xi, 120, $1.00), illuminates a little studied and less understood segment of international affairs. As Western Europe ceases to be the single fulcrum about which questions of war and peace, prosperity and depression, turn, such studies as this will command more respect and attention. The present volume is unpretentiously and accurately described as "an introductory essay and selected bibliography of commercial, political, and cultural contacts between Latin America and the Far East from the time of the sixteenth century Spanish galleon trade to the coolie traffic of the nineteenth and the Japanese colonization schemes of the twentieth century." Future students will be grateful for the twenty-five-page selected bibliography.—WILLIAM T. R. FOX.

Brazil is the first one of the Latin American countries to issue an annual showing the government's participation in international institutes, commissions, congresses, and conferences, together with the names of the Brazilian representatives. This *Anuário da divisão de atos, congresses e conferências internacionais para 1942* (115 pages) of the ministry of foreign relations includes a listing of all treaties and conventions on which the government of Brazil has taken action during the year 1941. The volume has a name index.—JAMES B. CHILDS.

POLITICAL THEORY AND MISCELLANEOUS

The Strength of Nations (Macmillan Co., pp. 268, $2.50), by George Soule, does not deal with international relations, as its title might suggest, but concerns itself with the consideration of a dynamic approach to the study of human institutions. The author brings an indictment against all social scientists for failure to contribute adequately to the solution of the problems of society. His study leads him to the conclusion that we have failed, first, because the social sciences have not developed a scientific approach; second, because they have not discovered any basic principles universally accepted by the scientists themselves; third, because each social scientist has isolated himself in the narrow compartment of his own discipline, thus blocking the advance of scientific inquiry; and fourth, because the social scientist conducts aimless research for its own sake (p. 21), and does not realize that other disciplines, notably psychiatry, can contribute to the attainment of truth. Since the basic explanation of the problems that vex humanity lies in the nature of man himself, the author feels that none of the social sciences can progress far without psychology and psychiatry. In fact, he explains attitudes, both individual and national, toward certain economic and political institutions in terms of psychiatry, discusses totalitarianism in Freudian terms, and points out why totalitarian revolutions must eventually fail. But the author does not content himself with a list of accusations; he presents the reader with constructive suggestions for a new set-up in the social sciences, including the adoption of a scientific method, acceptance of the view that there must be developed a general social theory relating to all aspects of behavior, and recognition that the separate social disciplines can be used only as an approach rather than as water-tight compartments of knowledge (p. 200). He envisions the training of experts as "doctors of society" in place of doctors of philosophy, entailing the study of all social sciences instead of one, including fundamental training in dynamic psychiatry and an internship in practical matters either in government or in business. He sees a Social Science Center, comparable to the modern Medical Center, as a clearing house for the solution of public problems. For the political scientist, the author's suggestions have no novelty; they are very much on the same order as those advocated by Merriam of Chicago nearly two decades ago (*New Aspects of Politics*). But the layman finds himself with a book written for him, in non-technical terms, in a facile style, readable and not too profound, dealing with a subject in which an interest has been generated because of the problems brought on by the war. Weighing the political scientist in the scales presented by Mr. Soule's indictment, one feels that although some of his charges may stick, definite progress has been made, particularly as regards the study of political behavior (Lasswell and Gallup) in terms of psychological factors and in respect to an insistence upon a broad foundation in fields such as geography, statistics, economics, and sociology which characterizes the requirements for political science majors on the graduate level in our institutions of higher learning.—ELIZABETH ANNE WEBER.

Although the translation and publication of the *Collected Works* of V. I. Lenin in English was begun as early as 1927, only five volumes (IV, XIII, XVIII, XX, and XXI) have hitherto appeared. To this number a sixth (XIX) is now added (International Publishers, pp. 463, $3.00). Translated by the late M. J. Olgin and edited by Alexander Trachtenberg, this latest volume contains speeches, letters, pamphlets, and articles produced by the Bolshevist leader during the eventful period from January, 1916, to the eve of the Russian Revolution in March, 1917. Much of the material was published originally in the Swiss Socialist press or in the Marxian press of other countries; many of the items, however, were not published for the first time until after Ludendorff, with Machiavellian benevolence, furnished Lenin with express transportation from the land of his exile back to the land of his birth and the Provisional Government succeeded to the government of the Tsar. Many of the principal speeches and articles here presented were prepared by Lenin in his capacity of spokesman of the "Zimmerwald Left," the small group of militant Marxians who, at the two international Socialist conferences held at Zimmerwald and Kienthal, Switzerland, in 1915 and 1916, broke with the existing organization of International Marxism and laid the foundations of the Third or Communist International, subsequently established at Moscow. As might be expected, much of this portion of the volume is repetitious, strongly denunciatory in tone, and suffused with that quality of intellectual arrogance highly developed in great leaders and particularly so in leaders who are also Marxian Communist logicians. Although of a fugitive nature, this portion of the volume will be of value to historians both because of the author and of the events to which it relates. Two or three of the items in the volume approximate the proportions of an essay. This is notably true of the discussion of "Imperialism," which embraces more than one hundred pages. Admittedly relying heavily on numerous earlier cognate works, particularly on those of the British economist Hobson and the Austrian Marxist Hilferding, Lenin, in this essay, advances the now familiar Bolshevik thesis that the twentieth century has ushered in the imperialist phase of national development; that the economic aspect of imperialism is characterized by various forms of monopoly capitalism; and that monopoly capitalism has grown out of competitive capitalism and represents the decay of that form of capitalism and a transition stage to a "higher social-economic order."—ARNOLD J. ZURCHER.

In the current literature on the labor supply problem in war-time, *Labour Supply and National Defense* (International Labor Office, Montreal, pp. 245, $1.00) is a valuable and outstanding contribution. From no other source has come a study so universal in scope. There are obvious difficulties involved in the execution of such a study. It deals with problems of current development. It is an effort to describe the flow of streams whose eddies, and sometimes whose main currents, are continually changing under the influence of fresh obstacles and new contours of channel. Communication being what it is during these years of war, documentation of such a study must inevitable lag behind the latest press dispatches. Furthermore, as far as the International Labor Office itself is concerned, the supervisors of the study have had problems of their own to meet, incidental to the transfer of the office from Geneva to Montreal. In spite of these obvious difficulties, there has been no staff better able to undertake a comprehensive analysis of the labor supply problem in war-time than the International Labor Office, and there has been no current study which has met the needs of students and administrators in so creditable a fashion. While actual field investigation was out of the question, the Office had the advantage of submitting a draft of this report to a tripartite Canadian-American meeting held in Montreal in 1941, under the auspices of the Office. The volume is arranged around two principal headings: the problems themselves and the governmental organization devised to meet them. The problems are four: the allocation of man-power between the armed forces and industry; the control of employment so as to prevent destructive competition for available labor; the vocational training of available labor to defense jobs; and mobilization of labor resources. The countries studied are France, Germany, Great Britain, the United States, Japan, and Australia, Canada, New Zealand, and the Union of South Africa. The fact that labor supply policy has differed in each of these, conforming to the peculiar contours of social conditions in each, led the Office to undertake, with regard to each of the above problems, a monographic presentation of information, country by country, rather than an over-all assembling of facts. As an introduction to this monographic presentation, each problem receives a general analysis of the factors involved. Each of the problems, of course, could be elaborated to a good-sized study in itself, and the Office has made no pretense to exhaustiveness in its analysis of any one of them. Nor has the Office adopted any particular point of view; rather, it has emphasized throughout that the policy of any particular country "is a matter of expediency which can be determined only in the light of the special conditions within any one country at any given moment." This, however, has not prevented incorporation in the study of a set of conclusions formulated in the light of the Canadian-American study referred to above.—SMITH SIMPSON.

Barriers to Youth Employment (American Council on Education, pp. x, 110, $1.75) is an outcome of the larger study of youth and employment initiated by the American Youth Commission under the direction of the author, Dr. Paul David. This monograph should therefore be read in conjunction with Dr. David's contribution in the general report of the Commission (Chapters I–V), *Youth and the Future,* published in 1942. Otherwise it may appear that the special study scants too much the broader aspects of the problem of youth employment. Dr. David analyzes certain factors operating as barriers to youth employment: restrictions on entrance into occupations, seniority, child labor laws, and minimum wage regulations. Each barrier is discussed as a distinctive economic problem involving a special set of economic consequences; no consideration is given, however, to significant geographic differentials or important personal variations. Although the material is highly controversial, the author maintains his sense of proportion and objectivity. His approach to the specific issues between adults and youth seems almost too succinct and statistical, and yet his conclusions are always provocative and to the advantage of the young worker. This is his challenge on which he builds his recommendations: "We need a general awareness of when discrimination against youth is unfair and a general determination to accept youth as people who have rights along with the rest of us." The study is timely, for it presents a practical program of amelioration directed to the post-war future as well as to the current "duration."—MARIAN D. IRISH.

The so-called "Jewish problem" has for obvious reasons been the subject of much recent study. The works edited by Graeber and Britt and by Pinson will be remembered. Supplementing these is *An Appraisal of the Protocols of Zion* (Columbia University Press, pp. vii, 118, $1.00), by John S. Curtiss. This is a careful inquiry into the origins of the notorious Protocols and a summary of the overwhelming evidence demonstrating that they were forgeries, and not very clever ones at that. Even Sergei Nilus, the Russian religious mystic who first published them as authentic documents in 1905, admitted that he could not prove their authenticity. Later it was shown that their text was to a great extent a plagiarism of Maurice Joly's *Dialogue in Hell between Machiavelli and Montesquieu,* which had been a clever attack on the tyranny of Napoleon III. Other parts of the Protocols were borrowed from the works of such outstanding antisemites as Edouard Drumont. The documents exhibit glaring inconsistencies and an astonishing stupidity on the part of their presumably intelligent authors—for example, the Vulgate, and *not* a Hebrew version of the Bible is quoted! How any one could ever have accepted these forgeries as authentic is difficult to understand. But then, as our own day is demonstrating, even the ostensibly learned are not infrequently amazingly gullible.—MULFORD Q. SIBLEY.

Books which help people examine the basic assumptions underlying their social ideas ought to be more popular than they are. At first glance, Gustav Stolper's *This Age of Fable* (Reynal and Hitchcock, pp. xx, 369,

$3.00) looks like a diatribe against the fables of this generation and an attempt to re-state and defend those of a previous generation. The author examines, sometimes scornfully, such fables as the economic causes of war, myths about money, superstitions about the state and government, the attack on the profit motive, the "Have and Have-Not" theory of national conflict, and a host of other propositions which pass all too often for statements of fact. Sometimes the author comes close to refuting a current "fable" by merely asserting a different proposition of his own. Ordinarily, however, this is not the case. Impatient with many of the articles of social faith now in vogue, the author just as ruthlessly examines the fallacies of those who criticize them. The reader who goes through this book will have been led, and frequently irritated, into doing a good deal of thinking for himself.—HAROLD W. STOKE.

Thomas Paine (Longmans, Green and Co., pp. 40, $1.00), by J. M. Connell, is a brief, interesting, and well-written sketch of Paine's life reprinted, with a brief introduction by R. H. Mottram, from a bicentenary notice in the *Hibbert Journal*. It contains very little analysis of Paine's political, economic, or social philosophy, and it makes no special contribution to biographical literature on Paine. There would seem to be little reason for reprinting the article in book form, and the price is excessive.—E. M. KIRKPATRICK.

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